

NOTICE OF INTENT

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

**Psychiatric Residential Treatment Facilities
Licensing Standards
(LAC 48:I.Chapter 90)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 90 as authorized by R.S. 36:254 and R.S. 40:2009. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing of psychiatric residential treatment facilities (PRTFs) in order to revise the licensing standards as a means of assisting PRTFs to comply with the standards (*Louisiana Register*, Volume 39, Number 9). The department promulgated an Emergency Rule which amended the provisions governing the licensing standards for PRTFs in order to remove service barriers, clarify appeal opportunities, avoid a reduction in occupancy of PRTFs in rural locations, and clarify the process for cessation of business (*Louisiana Register*, Volume 40, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2014 Emergency Rule in order to revise the formatting of these provisions to ensure that these

provisions are appropriately promulgated in a clear and concise manner (*Louisiana Register*, Volume 41, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 20, 2015 Emergency Rule.

Title 48

**PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing**

**Chapter 90. Psychiatric Residential Treatment Facilities
(under 21)**

Subchapter A. General Provisions

§9003. Definitions

A. ...

Cessation of Business—~~when a PRTF participating in the Louisiana Medicaid Program stops providing services to the community.~~ Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 39:2510 (September

2013), LR 42:

Subchapter B. Licensing

§9015. Licensing Surveys

A. - D. ...

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

1. civil fines;
2. directed plans of correction; ~~and~~
3. ~~license revocations.~~ provisional licensure;
4. denial of renewal; and/or
5. license revocations.

F. - F.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 42:

§9017. Changes in Licensee Information or Personnel

A. - D.2. ...

3. A PRTF that is under provisional licensure, license revocation or denial of license renewal may not undergo a CHOW.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 42:

§9019. Cessation of Business

A. ~~A facility that intends to close or cease operations shall comply with the following procedures:~~ Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF ceases to operate.

- ~~1. give 30 days advance written notice to:~~
 - ~~a. HSS;~~
 - ~~b. the prescribing physician; and~~
 - ~~c. the parent(s) or legal guardian or legal representative of each resident;~~
- ~~2. notify the department of the location where the records will be stored and the contact person for the records;~~
~~and~~
- ~~3. provide for an orderly discharge and transition of all of the residents in the facility.~~ 1. - 3. Repealed.

B. ~~If a PRTF fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or~~

~~owning a PRTF for a period of two years.~~ A cessation of business is deemed to be effective the date on which the PRTF stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the Department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the PRTF shall:

1. give 30 days' advance written notice to:
 - a. HSS;
 - b. the prescribing physician; and
 - c. the parent(s) or legal guardian or legal representative of each client; and
2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the PRTF shall submit a written plan for the disposition of clients' medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the

closed provider's clients' medical records;

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

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

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

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

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

H. Once the PRTF has ceased doing business, the PRTF shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375

(February 2012), amended LR 42:

§9023. Denial of License, Revocation of License, Denial of License Renewal

A. - C.3. ...

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

1. - 13. ...

14. bribery, harassment, or intimidation of any resident or family member designed to cause that resident or family member to use or retain the services of any particular

PRTF; or

15. ~~cessation of business or non operational status;~~
~~or~~ failure to maintain accreditation or failure to obtain accreditation.

16. ~~failure to maintain accreditation or failure to obtain accreditation.~~ Repealed.

E. If a PRTF license is revoked or renewal is denied, ~~(other than for cessation of business or non operational status)~~ or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such PRTF may be prohibited from opening, managing, directing, operating, or owning another PRTF for a period of two years from the date of the final disposition of the revocation, denial

action, or surrender.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:376 (February 2012), amended LR 42:

§9025. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License

A. - B. ...

1. The PRTF shall request the informal reconsideration within ~~10~~15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

2. - D. ...

E. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Division of Administrative Law shall conduct the hearing ~~within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the division if good cause is shown~~ pursuant to the Louisiana Administrative Procedure Act.

E.1. - G.2. ...

3. ~~The facility shall submit a written request for informal reconsideration within five calendar days of receipt of the department's notice of the results of the follow-up survey.~~
The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five days of receipt of the notice of the results of the follow-up survey from the department.

a. ~~The facility may forego its right to an informal reconsideration.~~Repealed.

4. ~~The facility shall submit a written request to the Division of Administrative Law for an administrative appeal within 15 calendar days of receipt of the department's notice of the results of the informal reconsideration.~~The provider shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

a. ~~If the facility has opted to forego the informal reconsideration process, a written request for an administrative appeal shall be made within 15 calendar days of receipt of the department's notice of the results of the follow-up survey.~~Repealed.

H. - H.1. ...

I. If a timely administrative appeal has been filed by a facility with a provisional initial license that has expired or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law shall conduct the hearing ~~within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Division of Administrative Law if good cause is shown~~ pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:377 (February 2012), amended LR 42:

§9027. Complaint Surveys

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:378 (February 2012), amended LR 42:

§9029. Statement of Deficiencies

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012), amended LR 42:

Subchapter H. Additional Requirements for Mental Health PRTFs

§9093. Personnel Qualifications, Responsibilities, and Requirements

A. - 2.a.iv. ...

b. The clinical director is responsible for the

following:

i. ~~providing a monthly minimum of one hour of on-site clinical direction per resident~~providing clinical direction for each resident at a minimum of one hour per month, either in person on-site, or via telemedicine pursuant to R.S. 37:1261-1292, et seq. and LAC 46:XLV.408 and Chapter 75, et seq.;

(a). - 3.a.iv. ...

b. A LMHP or MHP shall provide ~~a minimum of three individual therapy sessions each week~~ for each resident ~~(a minimum weekly total of 120 minutes)~~ of individual therapy.

3.c. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:397 (February 2012), amended LR 39:2511 (September 2013), LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued access to PRTF services.

In compliance with Act 854 of the 2012 Regular Session of

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

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

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

the next business day following the public hearing.

Kathy H. Kliebert

Secretary