Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 90. Psychiatric Residential Treatment Facilities (under 21)

Subchapter A. General Provisions

§9001. Purpose

A. The purpose of this Chapter 90 is to provide for the development, establishment and enforcement of statewide standards for the care of residents in psychiatric residential treatment facilities (PRTFs) participating in the Medicaid Program, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of residents of PRTFs participating in the Medicaid Program.

B. In addition to requirements stated herein, all licensed PRTFs shall comply with applicable local, state, and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

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

§9003. Definitions

A. The following defines selected terminology used in connection with this Chapter 90.

Abuse—any one of the following acts which seriously endangers the physical, mental or emotional health of the resident:

a. infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident;

b. exploitation or overwork of a resident;

c. involvement of the resident in sexual activity constituting a crime under the laws of this state.

Accreditation—official notification given the provider of compliance to standards established by either:

a. the Joint Commission (TJC), formerly known as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

b. the Commission on Accreditation of Rehabilitation Facilities (CARF); or

c. the Council on Accreditation for Children and Family Services (COA).

Active Treatment—implementation of a professionally developed and supervised individual plan of care that is developed no later than 14 days after admission and designed to achieve the recipient's discharge from inpatient status at the earliest possible time.

Administrator—the person responsible for the on-site, daily implementation and supervision of the facility's overall 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 fostering the resident's self-control, and to prevent or interrupt a resident's behavior which threatens harm to the resident or others.

Change of Ownership (CHOW)—the sale or transfer whether by purchase, lease, gift or otherwise of a PRTF by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a PRTF or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the PRTF.

Clinical Director—the person who has responsibility for the psychiatric aspects of the program and who has to provide full-time coverage on an on-site or on-call basis.

CMS—the Centers for Medicare and Medicaid Services, Department of Health and Human Services.

Core Mental Health Disciplines—academic training programs in psychiatry, psychology, social work and psychiatric nursing.

DCFS—the Department of Children and Family Services.

Department—the Department of Health and Hospitals.

Discipline—the ongoing practice of helping residents develop inner control so they can manage their own behavior in an appropriate and acceptable manner.

Documentation—written evidence or proof, including signatures of appropriate staff and date, must be maintained on site and available for review.

DSS—the Department of Social Services.

Emergency Safety Intervention—the use of restraint or seclusion as an immediate response to an emergency safety situation.

Emergency Safety Situation—unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an *emergency safety intervention*.

Governing Body—the board of trustees, owner or person(s) designated by the owner with ultimate authority and responsibility (both moral and legal) for the management, control, conduct, and functioning of the PRTF.

Group (or Unit)—refers to the residents who share a common space and relate to one primary staff person (who may be assisted by others) on a consistent or daily basis.

HSS—the Department of Health and Hospitals, Health Standards Section.

License—the legal authority to operate as a PRTF in the state of Louisiana.

Licensed Mental Health Professional (LMHP)—an individual who meets one of the following education and experience requirements:

a. a physician duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry; or

b. a psychologist licensed as a practicing psychologist under the provisions of R.S. 28:2351-2370; or

c. a medical psychologist licensed under the provisions of R.S. 28:2351-2370; or

d. a social worker who holds a master's degree in social work from an accredited school of social work and is a licensed clinical social worker under the provisions of R.S. 37:2701-2718, as amended; or

e. an advanced practice registered nurse licensed as a registered nurse in the state of Louisiana by the Board of Nursing who may practice to the extent that services are within the nurse's scope of practice; and

i. who is a nurse practitioner specialist in adult psychiatric and mental health and family psychiatric and mental health; or

ii. who is a certified nurse specialist in psychosocial, gerontological psychiatric mental health, adult psychiatric and mental health and child-adolescent mental health;

f. a licensed professional counselor who is licensed as such under the provision of R.S. 37:1101-1115 and has at least two years post master's supervised experience delivering services in the mental health-related field; or

g. a licensed marriage and family therapist who is licensed as such under the provisions of R.S. 37:1116-1121; or

h. a licensed addiction counselor who is licensed as such under the provisions of R.S. 37:3387.

LSUCCC—the Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council.

Mechanical Restraint—any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

Mental Health Professional (MHP)—an individual who is supervised by a LMHP and meets the following criteria as documented by the provider:

a. has a Master of Social Work degree; or

b. has a Master of Arts degree, Master of Science degree or a Master of Education degree in a mental health-related field; and

i. has a minimum of 15 hours of graduate level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and/or mental problems. These hours may have been obtained as a part of, or in addition to, the master's degree.

Mental Health-Related Field—academic training programs based on the principles, teachings, research and body of scientific knowledge of the *core mental health disciplines*. Programs which qualify include, but are not limited to sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological counseling and other professional counseling. For any other program to qualify as a related field, there must be substantial evidence that the academic program has a curriculum content in which at least 70 percent of the required courses for graduation are based on the knowledge base of the *core mental health disciplines*.

Mental Health Service Delivery Experience—mental health service delivery experience at the professional or paraprofessional level delivered in an organized mental health or psychiatric rehabilitation setting such as a psychiatric hospital, day treatment or mental health case management program or community mental health center.

Mental Health Specialist (MHS)—a person who delivers direct care services under the direct supervision of a LMHP or MHP and who meets one or more of the following four criteria as documented by the provider:

a. is actively pursuing a Bachelor of Arts degree in a *mental health-related field*; or

b. is actively pursuing a Bachelor of Science degree in a *mental health-related field*; or

c. has a Bachelor's degree and is a student pursuing a graduate degree in a *mental health-related field* and has completed at least two courses in that identified field; or

d. has a high school degree or a GED and has two years experience providing direct services in a mental health, physical health, social services, educational or correctional setting.

Minor—a *minor* as defined under state law and, for the purpose of this Chapter, includes a resident who has been declared legally incompetent by the applicable state court.

Neglect—the unreasonable refusal or failure of a facility to supply a resident with necessary food, clothing, shelter, care, treatment, or counseling for injury, illness, or condition of the resident, as a result of which the resident's physical, mental or emotional health and safety is substantially threatened or impaired.

New Construction—any of the following started after January 1, 2004:

a. new buildings to be used as a PRTF;

b. additions to existing buildings to be used as a PRTF;

c. conversions of existing buildings or portions thereof for use as a PRTF;

d. alterations other than minor alterations to an existing PRTF.

Normal Business Hours—between the hours of 7 a.m. and 6 p.m. every Monday-Friday, except for holidays.

OCS—the Department of Child and Family Services, Office of Community Services.

OPH—the Department of Health and Hospitals, Office of Public Health.

OSFM—the Department of Public Safety and Corrections, Office of State Fire Marshal.

OYD—the Department of Public Safety and Corrections, Office of Youth Development.

Personal R*estraint*—the application of physical force, without the use of any device, for the purpose of restraining the free movement of a resident's body. The term personal restraint does not include briefly holding without undue force a resident in order to calm or comfort him/her, or holding a resident's hand to safely escort a resident from one area to another.

Psychiatric Residential Treatment Facility (PRTF)—a facility other than a hospital, that provides inpatient psychiatric services, as described in 42 CFR part 441 subpart D, to individuals under age 21, in a residential setting.

Restraint—a personal *restraint*, mechanical *restraint*, or drug used as a *restraint*.

Seclusion—the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

Serious Injury—any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

Staff—those individuals with responsibility for managing a resident's health or participating in an *emergency safety intervention* and who are employed by the facility on a full-time, part-time or contract basis.

Time Out—the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

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 42:277 (February 2016).

Subchapter B. Licensing

§9007. General Provisions

A. All psychiatric residential treatment facilities shall be licensed by the department. A PRTF shall not be established, opened, operated, managed, maintained, or conducted in this state without a current valid license issued by the department. The department is the only licensing authority for PRTFs in the state of Louisiana. It shall be unlawful to operate a PRTF without possessing a current, valid license issued by the department. Each PRTF shall be separately licensed.

B. A PRTF 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 up to one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that date, or unless a provisional license is issued;

4. expire on the expiration date listed on the license, unless timely renewed by the PRTF 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.

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

1. The PRTF shall always have at least two employees, one of whom is a licensed nurse, on duty at the facility location at all times.

2. There shall be staff employed and available to be assigned to provide care and services to each resident. Services rendered shall be consistent with the medical needs of each resident.

D. The licensed PRTF shall abide by and adhere to any state law, rules, policy, procedure, manual, or memoranda pertaining to such facilities.

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

F. No branches, satellite locations or offsite campuses shall be authorized for a PRTF.

G. No new PRTF, except one that has a Child Residential License by DCFS, shall accept residents until the PRTF has written approval and/or a license issued by HSS.

H. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OSFM and the Department of Health and Hospitals as part of the licensing procedure and prior to obtaining a license.

1. Submission Plans

a. Submittal Requirements

i. One set of the final construction documents shall be submitted to the OFSM for approval. The Fire Marshal's approval letter and final inspection shall be sent to the DHH.

ii. One set of the final construction documents shall be submitted to DHH along with the appropriate review fee and a "plan review application form" for approval.

b. Applicable Projects. Construction documents require approval for new construction and major alterations.

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

i. the latest OSFM adopted edition of the National Fire Protection Agency (NFPA) 101-Life Safety Code;

ii. the latest LSUCCC adopted edition of the *International Building Code*;

iii. the current licensing standards for psychiatric residential treatment facilities; and

iv. the latest OPH adopted edition of the *Louisiana State Plumbing Code.*

d. Construction Document Preparation. Construction documents submitted to DHH shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed. These documents shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

i. site plans;

ii. floor plans. These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;

iii. building elevations;

iv. room finish, door and window schedules;

v. details pertaining to the Americans with Disabilities Act (ADA) requirements; and

vi. specifications for materials.

2. Waivers. The secretary of DHH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of, or otherwise required under, the provisions of the state Sanitary Code. The facility must submit a waiver request in writing to HSS. The facility must demonstrate how patient safety and quality of care offered is not compromised by the waiver, and must demonstrate the undue hardship imposed on the facility if the waiver is not granted. The facility must demonstrate their ability to completely fulfill all other requirements of service. The department will make a written determination of the requests.

a. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related the waiver.

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 38:372 (February 2012).

§9009. Initial Licensing Application Process

A. An initial application for licensing as a PRTF shall be obtained from the department. A completed initial license application packet for a PRTF shall be submitted to and approved by the department prior to an applicant providing PRTF services.

B. Currently licensed DCFS child residential facilities that are converting to PRTFs must comply with all of the initial licensure requirements, except plan review, and may be eligible for the exception to the bedroom space requirement of this Chapter.

C. An applicant must submit a completed initial licensing application packet to the department, which shall include:

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

2. a copy of the approval letter of the architectural facility plans for the PRTF from the department and from the OSFM, and any other office/entity designated by the department to review and approve the facility's architectural plans, if the facility must go through plan review;

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 (OPH);

5. a copy of statewide criminal background checks on all individual owners with a 5 percent or more ownership interest in the PRTF entity, and on all administrators or managing employees;

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 floor sketch or drawing of the premises to be licensed; and

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

D. 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 a PRTF must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

E. Once the initial licensing application packet has been approved by the department, notification of the approval shall be forwarded to the applicant. Within 90 days of receipt of the approval notification, the applicant must notify the department that the PRTF 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 has been closed, an applicant who is still interested in becoming a PRTF must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

F. Applicants must be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the PRTF will be issued an initial license to operate.

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 38:373 (February 2012), amended LR 39:2510 (September 2013).

§9011. 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 PRTF is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license for a PRTF shall be valid until the expiration date shown on the license, unless the license is revoked, suspended, modified, or terminated prior to that time. The initial license shall specify the capacity of the facility.

2. Provisional Initial License. The department may issue a provisional initial license to the facility when the initial licensing survey finds that the PRTF 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 residents or participants. The provisional license shall be valid for a period not to exceed six months.

a. At the discretion of the department, the provisional initial license may be extended for an additional period not to exceed 90 days in order for the PRTF to correct the noncompliance or deficiencies.

b. The facility must submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional initial license.

c. A follow-up survey shall be conducted prior to the expiration of the provisional initial license.

i. 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.

ii. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional initial 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.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed PRTF who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, Rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

4. Provisional Renewal License. The department, in its sole discretion, may issue a provisional license to an existing licensed PRTF for a period not to exceed six months.

a. At the discretion of the department, the provisional renewal license may be extended for an additional period not to exceed 90 days in order for the PRTF to correct the noncompliance or deficiencies.

b. A provisional renewal license may be issued for the following reasons:

i. the existing PRTF has more than five deficient practices or deficiencies cited during any one survey;

ii. the existing licensed PRTF has more than three validated complaints in a one year period;

iii. the existing PRTF has been issued a deficiency that involved placing a resident or participant at risk for serious harm or death;

iv. the existing PRTF 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; or

v. the existing PRTF 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 renewal license to an existing licensed PRTF, the provider shall submit a plan of correction to the department for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the PRTF prior to the expiration of the provisional license.

i. If the on-site follow-up survey determines that the PRTF 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 PRTF license.

ii. If the on-site follow-up survey determines that the PRTF has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional renewal 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.

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 38:373 (February 2012).

§9013. Deemed Status

A. A licensed PRTF may request deemed status from the department. The department may accept accreditation in lieu of a routine on-site licensing survey provided that:

1. the accreditation is obtained through an organization approved by the department;

2. all services provided under the PRTF license must be accredited; and

3. the provider forwards the accrediting body's findings to the Health Standards Section within 30 days of its accreditation.

B. If approved, accreditation will be accepted as evidence of satisfactory compliance with all of the provisions of these requirements.

C. Occurrence of any of the following may be grounds for the department to perform a survey on an accredited PRTF provider with deemed status:

1. any valid complaint in the preceding 12-month period;

2. addition of services;

3. a change of ownership in the preceding 12-month period;

4. issuance of a provisional license in the preceding 12-month period;

5. serious violations of licensing standards or professional standards of practice that were identified in the preceding 12-month period that placed residents at risk for harm;

6. a report of inappropriate treatment or service resulting in death or serious injury; or

7. a change in geographic location.

D. A PRTF with deemed status is responsible for complying with all of the provisions of this Rule and is subject to all of the provisions of this Rule.

1. The secretary of the DHH may, within his/her sole discretion, grant waivers to building and construction guidelines. The facility must submit a waiver request in writing to the Division of Engineering and Architectural Services. The facility must demonstrate how patient safety and quality of care offered is not comprised by the waiver. The facility must demonstrate their ability to completely fulfill all other requirements of service. DHH will make a written determination of the requests. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver.

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 38:374 (February 2012).

§9015. Licensing Surveys

A. Prior to the initial license being issued to the PRTF, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. Except for facilities that have a Child Residential License issued by DCFS, every PRTF shall not provide services to any resident 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. Once an initial license has been issued, the department may 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.

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices. The department shall issue written notice to the provider of the results of the follow-up survey.

D. An acceptable plan of correction may be required for any survey where deficiencies have been cited.

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;

3. provisional licensure;

4. denial of renewal; and/or

5. license revocations.

F. Surveyors and staff on behalf of the department shall be:

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

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

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 42:277 (February 2016).

§9017. Changes in Licensee Information or Personnel

A. A PRTF 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 PRTF's name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the change. Any change regarding the PRTF name or "doing business as" name requires a change to the facility license and shall require a $25 fee for the issuance 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 shall include the:

a. administrator;

b. clinical director; and

c. program manager.

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

a. name;

b. hire date; and

c. qualifications.

D. A change of ownership (CHOW) of the PRTF shall be reported in writing to the department at least five days prior to the change of ownership.

1. The license of a PRTF is not transferable or assignable. The license 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 of the application requirements are completed and approved by the department, a new license shall be issued to the new owner.

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

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

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

1. Written notice of intent to relocate must be submitted to HSS when the plan review request is submitted to the department for approval.

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

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 42:278 (February 2016).

§9019. Cessation of Business

A. Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF ceases to operate.

B. 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 42:278 (February 2016).

§9021. Renewal of License

A. To renew a license, a PRTF must 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 report with approval for occupancy from the Office of the State Fire Marshal and the Office of Public Health;

3. 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;

4. the license renewal fee; and

5. any other documentation required by the department.

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

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

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

E. If an existing licensed PRTF has been issued a notice of license revocation, suspension, or termination, and the facility's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal 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 38:376 (February 2012).

§9023. 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 an initial 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 PRTF is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, Rules or regulations and such noncompliance presents a potential threat to the health, safety, or welfare of the residents who will be served by the facility.

2. The department shall 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 providing services, unless the provider is actively treating residents, in which case the provider shall:

a. immediately provide written notice to the department of the number of residents that are receiving treatment at the PRTF;

b. immediately provide written notice to the prescribing physician and to every resident, parent, legal guardian, or legal representative of the following:

i. voluntary non-renewal of the facility's license;

ii. date of closure of the facility; and

iii. plans for orderly transition of the resident;

c. discharge and transition of each resident 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 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.

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. failure to be in substantial compliance with the PRTF 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 a resident's rights whereby deficient practices result in harm, injury, or death of a resident;

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

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

b. any action posing a threat to a resident'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 the acts outlined in §9023.D.4;

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

a. application for initial license or renewal of license;

b. data forms;

c. records, including:

i. clinical;

ii. resident; or

iii. facility;

d. matters under investigation by the department or the Office of 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 a PRTF by the owner, administrator, manager, member, officer, or director;

10. an owner, officer, member, manager, administrator, director, or person designated to manage or supervise resident 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:

a. For purposes of these provisions, conviction of a felony means a felony relating to any of the following:

i. violence, abuse, or neglect of another person;

ii. misappropriation of property belonging to another person;

iii. cruelty, exploitation, or sexual battery of a juvenile or the infirmed;

iv. a drug offense;

v. crimes of a sexual nature;

vi. possession or use of a firearm or deadly weapon; or

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

11. failure to comply with all of the 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 the residents;

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

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. failure to maintain accreditation or failure to obtain accreditation.

E. If a PRTF license is revoked or renewal is denied, 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. The denial of the license renewal application shall not affect in any manner the license revocation, suspension, or termination.

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 42:278 (February 2016).

§9025. Notice and Appeal of License Denial, License Revocation, 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. The PRTF 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 PRTF shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

2. The request for informal reconsideration must 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 shall 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 shall be notified in writing of the results of the informal reconsideration.

C. The PRTF 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 PRTF 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.

a. 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.

2. The request for administrative appeal must be in writing and shall be submitted to the DAL or its successor. The request shall include any documentation that demonstrates that the determination was made in error and must include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL or its successor, 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 DAL 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 resident, 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 an existing licensed PRTF has been issued a notice of license revocation and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

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 pursuant to the Louisiana Administrative Procedure Act.

1. If the final DAL 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 fees or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final DAL decision is to affirm the license non-renewal or the license revocation, the facility shall discharge any and all residents receiving services according to the provisions of this Chapter. 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 the residents' records will be stored.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new PRTF or a provisional license to an existing PRTF. The issuance of a provisional license is not considered to be a denial of license, a denial of license renewal, or a license revocation.

G. A facility 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 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.

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

3. 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.

4. 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.

H. A facility with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge the residents unless the Division of Administrative Law issues a stay of the expiration.

1. A stay may be granted upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing and upon a showing that there is no potential harm to the residents being served by the facility.

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 pursuant to the Louisiana Administrative Procedure Act.

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

2. If the final DAL decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all residents receiving services. Within 10 calendar days of the final agency decision, the facility shall provide written notification to HSS of the secure and confidential location of where the resident's records will be stored.

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 42:278 (February 2016).

§9027. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13, et seq. on any PRTF, including those with deemed status.

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. If the department determines other action, such as license revocation is appropriate, a plan of correction may not be required and the facility will be notified of such action.

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 fines, 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, resident, or participant, as necessary or required to conduct the survey.

G. A PRTF 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 that resulted from his/her complaint. 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 provider and the complainant shall be

notified in writing of the results of the informal reconsideration.

J. Except for the right to an administrative appeal provided in R.S. 40:2009.16(A), 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.

1. To request an administrative appeal pursuant to R.S. 40:2009.16, the written request for the appeal shall be submitted to the Division of Administrative Law (DAL) and must be received within 30 calendar days of the receipt of the results of the informal reconsideration.

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. 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.

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 42:279 (February 2016).

§9029. Statement of Deficiencies

A. The following statements of deficiencies issued by the Department to the PRTF shall be posted in a conspicuous place on the licensed premises:

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

2. any complaint survey statement of deficiencies issued after the most recent annual survey.

B. Any statement of deficiencies issued by the department to a PRTF 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 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. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration.

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

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 42:279 (February 2016).

Subchapter C. Organization and Administration

§9031. General Provisions [Formerly §9027]

A. Purpose and Organizational Structure. The purpose of the PRTF shall be clearly defined in a statement filed with the Department. The statement includes the:

1. program philosophy;

2. program goals and objectives;

3. ages, sex and characteristics of residents accepted for care;

4. geographical area served;

5. types of services provided;

6. description of admission policies; and

7. needs, problems, situations or patterns best addressed by the provider's program.

B. House Rules. The provider shall have a clearly written list of rules governing conduct for residents in care and shall document that these rules are made available to each staff member, resident, and where appropriate, the resident's parent(s) or legal guardian(s).

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 30:59 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012).

§9033. Governing Body [Formerly §9029]

A. The PRTF must have either an effective governing body or individual(s) legally responsible for the conduct of the PRTF operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. The governing body shall:

1. establish PRTF-wide policy;

2. adopt bylaws;

3. appoint an administrator;

4. designate qualified clinical director to assume responsibility for the psychiatric aspects of the program and to provide full-time coverage on an on-site or on-call basis;

5. maintain quality of care;

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

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

8. inform the department or its designee prior to initiating any substantial changes in the services provided by the facility; and

9. provide an overall institutional plan and budget, and ensure the facility is adequately funded and fiscally sound.

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

D. There shall be an organizational chart that delineates lines of authority and responsibility for all PRTF personnel.

E. The PRTF shall, when required by law, have a representative present at all judicial, educational, or administrative hearings that address the status of a resident in the care of the provider.

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 30:59 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:380 (February 2012).

§9035. Administrative Policies and Records [Formerly §9031]

A. Every PRTF shall have policies that are clearly written and current. All policies shall be available for review by all staff and DHH personnel. All policies shall be available for review upon request by a resident or a resident's parent or legal guardian.

B. All policies shall be reviewed annually by the governing body.

C. The PRTF shall have policies governing:

1. admission and discharge;

2. personnel;

3. volunteers;

4. grievance procedures;

5. behavior management;

6. use of restraint and seclusion;

7. mandatory reporting of abuse;

8. administering medication;

9. confidentiality of records;

10. participation of residents in activities related to fundraising and publicity;

11. participation of residents in research projects;

12. the photographing and audio or audio-visual recording of residents; and

13. emergency procedures;

14. sentinel events and critical incidents; and

15. factors that determine room assignments, including, but not limited to, age and diagnoses.

D. Admission Policy

1. A PRTF shall have written admission policies and criteria which shall include the following:

a. intake policy and procedures;

b. admission criteria and procedures;

c. policy regarding the determination of legal status, according to appropriate state laws, before admission;

d. the age of the populations served;

e. the services provided by the PRTF;

f. criteria for discharge;

g. only accepting residents for placement from the parent(s), legal guardian(s) custodial agency or a court of competent jurisdiction;

h. not admitting more residents into care than the number specified on the provider's license; and

i. ensuring that the resident, the resident's parent(s) or legal guardian(s) and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

2. Notification of Facility Policy Regarding the Use of Restraint and Seclusion. At admission, the facility must:

a. inform both the incoming resident and, in the case of a minor, the resident's parent(s) or legal guardian(s) of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the resident is in the program;

b. communicate its restraint and seclusion policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility must provide interpreters or translators;

c. obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or seclusion during an

emergency safety situation. Staff must file this acknowledgment in the resident's record; and

d. provide a copy of the facility policy to the resident and in the case of a minor, to the resident's parent(s) or legal guardian(s).

i. The facility's policy must provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

E. Behavior Management

1. The PRTF shall develop and maintain a written behavior management policy which includes:

a. the goals and purposes of the behavior management program;

b. the methods of behavior management;

c. a list of staff authorized to administer the behavior management policy;

d. the methods of monitoring and documenting the use of the behavior management policy; and

e. minimizing the use of restraint and seclusion and using less restrictive alternatives whenever possible.

2. The facility policy shall prohibit:

a. shaking, striking, spanking or other cruel treatment;

b. harsh, humiliating, cruel, abusive or degrading language;

c. denial of food or sleep;

d. work tasks that are degrading or unnecessary and inappropriate to the resident's age and ability;

e. denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;

f. use of chemical agents, including tear gas, mace, or similar agents;

g. extreme physical exercise;

h. one resident punishing another resident;

i. group punishment;

j. violating a resident's rights; and

k. use of restraints or seclusion in non-emergency situations.

3. The PRTF must satisfy all of the requirements contained in federal and state laws and regulations regarding the use of restraint or seclusion, including application of time out.

F. Resident Abuse

1. The provider shall have comprehensive written procedures concerning resident abuse including:

a. a description of ongoing communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, and mandated reporting requirements to HSS and the DCFS, Child Welfare Division;

b. a procedure for disciplining staff members who abuse or neglect a resident;

c. procedures for insuring that the staff member involved in suspected resident abuse or neglect does not work directly with the resident involved or any other resident in the program until the investigation is complete.

2. Any case of suspected resident abuse or neglect shall be reported immediately to the HSS and, unless prohibited by state law, the DCFS, Child Welfare Division.

3. Staff must report any case of suspected resident abuse or neglect to both HSS and the DCFS, Child Welfare Division by no later than close of business the next business day after a case of suspected resident abuse or neglect. The report must include:

a. the name of the resident involved in the suspected resident abuse or neglect;

b. a description of the suspected resident abuse or neglect;

c. the date and time the suspected abuse or neglect occurred;

d. the steps taken to investigate the abuse and/or neglect; and

e. the action taken as a result of the incident.

4. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the suspected resident abuse or neglect.

5. Staff must document in the resident's record that the suspected resident abuse or neglect was reported to both HSS and the DCFS, Child Welfare Division, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record.

G. The facility must report each serious occurrence to both HSS and, unless prohibited by state law, the DCFS, Child Welfare Division. Serious occurrences that must be reported include a resident's death, or a serious injury to a resident or a suicide attempt by a resident.

1. Staff must report any serious occurrence involving a resident to both HSS and the DCFS, Child Welfare Division by no later than close of business the next business day after a serious occurrence. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. The facility must conduct an investigation of the serious occurrence to include interviews of all staff involved, findings of the investigation, and actions taken as a result of the investigation.

2. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

3. Staff must document in the resident's record that the serious occurrence was reported to both HSS and the DCFS, Child Welfare Division, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

H. The PRTF shall have a written policy regarding participation of residents in activities related to fundraising and publicity. Consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained prior to participation in such activities.

I. The PRTF shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of residents.

1. The written consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained before the resident is photographed or recorded for research or program publicity purposes.

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

J. The PRTF shall have written policies regarding the participation of residents in research projects. No resident shall participate in any research project without the express written consent of the resident and the resident's parent(s) or legal guardian(s).

K. Administrative Records

1. The records and reports to be maintained at the facility and available for survey staff to review are:

a. residents' clinical records;

b. personnel records;

c. criminal history investigation records;

d. orientation and training hour records;

e. menus of food served to residents;

f. fire drill reports acceptable to the OFSM as defined by the most current adopted edition of the *NFPA 101, Life Safety Code*;

g. schedules of planned recreational, leisure or physical exercise activities;

h. all leases, contracts and purchase-of-service agreements to which the provider is a party;

i. all written agreements with appropriately qualified professionals, or state agencies, for required professional services or resources not available from employees of the provider;

j. written policies and procedures governing all aspects of the provider's activities to include:

i. behavior management;

ii. emergency evacuation; and

iii. smoking policy.

L. Information obtained by the department from any applicant or licensee regarding residents, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a resident abuse report or investigation is kept confidential.

1. The PRTF shall ensure the confidentiality and security of resident records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA Privacy Regulations. Information from, or copies of records may be released only to authorized individuals, and the PRTF must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records shall not be released outside the PRTF unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

a. The provider shall have written procedures for the maintenance and security of clinical records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider, and the provider as custodian shall secure records against loss, tampering or unauthorized use.

b. Employees of the PRTF shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

c. When the resident is of majority age and noninterdicted, the provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for accreditation teams and authorized state and federal agencies.

d. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s) or legal guardian(s) prior to releasing any information from which the resident or his/her family might be identified, except for accreditation teams, authorized state and federal agencies.

e. The provider shall, upon written authorization from the resident or his/her parent(s) or legal guardian(s), make available information in the case record to the resident, his counsel or the resident's parent(s) or legal guardian(s).

f. If, in the professional judgment of the clinical director, it is felt that information contained in the record is reasonably likely to endanger the life or physical safety of the resident, the provider may deny access to the record. In any such case the provider shall prepare written reasons for denial to the person requesting the record and shall maintain

detailed written reasons supporting the denial in the resident's file.

g. The provider may use material from case records for teaching for research purposes, development of the governing body's understanding and knowledge of the facility's services, or similar educational purposes, provided names are deleted, other identifying information is disguised or deleted, and written authorization is obtained from the resident or his/her parent(s) or legal guardian(s).

2. PRTF records shall be retained by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a resident is discharged.

a. Graphic matter, images, x-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of five years from the date a resident is discharged. Such graphic matter, images, x-ray film and like matter shall be retained for longer periods when requested in writing by any one of the following:

i. an attending or consulting physician of the resident;

ii. the resident or someone acting legally in his/her behalf; or

iii. legal counsel for a party having an interest affected by the resident's medical records.

3. The written record for each resident shall include:

a. administrative, treatment, and educational data from the time of admission until the time the resident leaves the facility, including intake evaluation notes and physician progress notes;

b. the name, home address, home telephone number, name of parent(s) or legal guardian(s), home address, and telephone number of parent(s) or legal guardian(s) (if different from resident's), sex, race, religion, birth date and birthplace of the resident;

c. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

d. placement agreement;

e. the resident's history including educational background, employment record, prior medical history and prior placement history;

f. a copy of the resident's individual service plan and any modifications to that plan;

g. progress reports;

h. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints;

i. reports of any resident's grievances and the conclusions or dispositions of these reports. If the resident's grievance was in writing, a copy of the written grievance shall be included;

j. a summary of family visits and contacts including dates, the nature of such visits/contacts and feedback from the family;

k. a summary of attendance and leaves from the facility;

l. the written notes from providers of professional or specialized services; and

m. the discharge summary at the time of discharge.

4. All of the resident's records shall be available for inspection by the department.

M. Quality Assessment and Improvement

1. The governing body shall ensure that there is an effective, written, ongoing, facility-wide program designed to assess and improve the quality of resident care.

2. There shall be a written plan for assessing and improving quality that describes the objectives, organization, scope and mechanisms for overseeing the effectiveness of monitoring, evaluation and improvement activities. All organized services related to resident care, including services furnished by a contractor, shall be evaluated. The services provided by each LMHP shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness.

3. Assessment of quality shall address:

a. resident care problems;

b. cause of problems;

c. documented corrective actions; and

d. monitoring or follow-up to determine effectiveness of the corrective actions taken.

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

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:60 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:380 (February 2012).

§9037. Notifications [Formerly §9033]

A. The facility shall comply with the following notification requirements.

1. The facility shall notify the department on the next working day in the event of temporary or permanent closing of the facility due to natural or man-made disasters or damage to the premises of the facility caused by fire, accident, or other elements that seriously affects the provision of services.

2. If a resident is absent without permission, the resident's parents or custodians are to be notified immediately.

B. The facility shall comply with the notification requirements regarding:

1. any case of suspected resident abuse or neglect;

2. each serious occurrence; and

3. the death of a resident.

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 30:63 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:383 (February 2012).

Subchapter D. Human Resources

§9041. Personnel [Formerly §9043]

A. The PRTF shall have personnel policies which include, but are not limited to, defining staff, essential job functions, qualifications, and lines of authority.

1. The PRTF shall have:

a. a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members whether directly employed, contract or volunteer;

b. written personnel policies and written job descriptions for each staff position;

c. written employee grievance procedures; and

d. written nondiscrimination policy that shall ensure that the provider does not discriminate in the employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, veteran's status or any non-merit factor in accordance with all state and federal regulations.

2. The PRTF shall have written policies, contracts and practices to assure:

a. the availability of adequate psychiatric services to meet the following requirements:

i. provide medical oversight of all of the clinical aspects of care, and provide 24-hour, seven days per week psychiatric on-call coverage;

ii. assess each resident's medication and treatment needs including administration of medication; prescribe medications or otherwise assure the case management and consultation services are provided to obtain prescriptions, and prescribed therapeutic modalities to achieve the resident's individual treatment plan's goals; and

iii. participate in the facility's plan of care team and quality assessment and improvement process;

b. sufficient supervision of all residents 24 hours a day.

3. Staff Medical Requirements

a. The PRTF shall have policies and procedures that define how the facility will comply with current regulations regarding healthcare screenings of PRTF personnel.

b. The PRTF shall have policies and procedures and require all personnel to immediately report any signs or symptoms of a communicable disease or personal illness to their supervisor or administrator as appropriate for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other residents or personnel.

B. There shall be a single organized professional staff that has the overall responsibility for the quality of all clinical care provided to patients, and for the ethical conduct and professional practices of its members, as well as for accounting to the governing body. The manner in which the professional staff is organized shall be consistent with the facility's documented staff organization and policies and shall pertain to the setting where the facility is located. The organization of the professional staff and its policies shall be approved by the facility's governing body.

C. The staff of a PRTF must have the appropriate qualifications to provide the services required by its residents' comprehensive plans of care. Each member of the direct care staff may not practice beyond the scope of his/her license, certification or training.

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

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:63 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:383 (February 2012).

§9043. Personnel Qualifications and Responsibilities

A. Staffing Definitions. All experience requirements are related to paid experience. Volunteer work, college work/study or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person must be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

B. Criminal History Investigation and References

1. The PRTF shall arrange for a criminal history investigation, as required by R.S. 15:587.1 for any applicant for employment, contractor, volunteer and other person who will provide services to the residents prior to that person working at the facility.

2. Staff criminal history investigations shall be maintained in a confidential manner, separate from the individual's personnel record.

C. Prohibitions

1. The facility is restricted from knowingly employing and/or contracting with a person who:

a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of:

i. any criminal activity involving violence against a person;

ii. child abuse or neglect;

iii. possession, sale, or distribution of illegal drugs;

iv. sexual misconduct and/or is required to register pursuant to the Sex Offenders Registration Act; or

v. gross irresponsibility or disregard for the safety of others;

b. has a finding placed on the Louisiana State Nurse Aide Registry or the Louisiana Direct Service Worker Registry.

2. The restrictions contained in this Subsection apply to employees and contractors who provide direct care to the residents of the facility.

3. Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.

4. If a staff member is alleged to have committed an act described in §9043.C.1, the accused shall be removed from contact with residents until the allegations are resolved. If criminal charges are filed, the accused shall be removed from contact with residents until the charges are resolved.

a. A person who has received a deferred sentence for any charge in §9043.C.1 shall be removed from contact with residents for the duration of the deferment.

D. The PRTF shall check the Louisiana State Nurse Aide Registry and the Louisiana Direct Service Worker Registry to ensure that every individual providing direct care does not have a finding placed against him/her on either registry.

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 38:384 (February 2012).

§9045. Personnel Orientation and Training

A. Orientation. Staff shall receive orientation within 30 days of employment.

1. Staff who will work with residents shall receive orientation before being assigned as the only staff responsible for residents.

2. Orientation includes, but is not limited to:

a. confidentiality;

b. grievance process;

c. fire and disaster plans;

d. emergency medical procedures;

e. organizational structure;

f. program philosophy;

g. personnel policy and procedure;

h. detecting and mandatory reporting of resident abuse;

i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

j. basic skills required to meet the health needs and problems of the resident;

k. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;

l. physical restraint which is to include a practice element in the chosen method; and

m. safe administration and handling of all medications including psychotropic drugs, dosages and side effects.

3. Orientation may be counted toward the total training hours for the first year.

B. The staff shall meet the following requirements for training.

1. Licensed mental health professionals (LMHPs), mental health professionals (MHPs), and mental health specialists (MHSs), with the exception of the administrator and clinical director shall obtain training according to the facility policy at least annually and as deemed necessary depending on the needs of the residents. The content of the training shall pertain to the roles and responsibilities of the position. Content areas shall include, but are not limited to:

a. crisis intervention and the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods, to prevent emergency safety situations;

b. child/youth development;

c. discipline;

d. stress management;

e. therapeutic relationship;

f. therapeutic intervention;

g. abuse prevention, detection, and reporting;

h. techniques to identify staff and resident behaviors, events, and environmental factors that may trigger emergency safety situations; and

i. the safe use of restraint and the safe use of seclusion, including the ability to recognize and respond to signs of physical distress or injury in residents who are restrained or in seclusion.

2. Certification in the use of cardiopulmonary resuscitation, including periodic recertification, along with an annual demonstration of competency in the use of cardiopulmonary resuscitation is required.

3. Staff training shall be provided by individuals who are qualified by education, training, and experience.

4. Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

5. Staff must be trained and demonstrate competency before participating in an emergency safety intervention.

6. All training programs and materials used by the facility must be available for review by HSS.

7. The PRTF shall maintain documentation of all of the training of its staff.

C. The provider shall complete and document an annual performance evaluation of all staff members. For any person who interacts with residents, the provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with residents.

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 38:384 (February 2012).

§9047. Personnel Requirements

A. Staffing Requirements. The PRTF shall meet minimum licensure requirements for staffing, staff qualifications and staffing ratios.

1. A PRTF that serves individuals from special risk populations shall modify staffing patterns to fit their increased needs.

2. The PRTF shall ensure that an adequate number of qualified staff members are present with the residents as necessary to ensure the health, safety and well-being of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the PRTF, the ages and needs of the residents, and shall assure the continual safety, protection, direct care and supervision of residents.

3. When residents are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

4. The PRTF shall make sufficient provisions for housekeeping and maintenance to ensure that staff is able to adequately perform direct care functions.

B. The facility shall maintain a minimum ratio of one staff person for three residents (1:3) between the hours of 6 a.m. and 10 p.m. The staff for purposes of this ratio shall consist of direct care staff (i.e. licensed practical nurse (LPN), MHS, MHP, LMHP, etc.).

C. The facility shall maintain a minimum ratio of one staff person for four residents (1:4) between 10 p.m. and 6 a.m. Staff shall always be awake while on duty. The staff for purposes of this ratio shall consist of direct care staff (i.e. LPN, MHS, MHP, LMHP, etc.).

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 38:385 (February 2012).

§9049. Personnel Records

A. The facility shall maintain on file a written personnel record for each employee working at the facility, which shall be kept for at least one year following an employee's separation from employment. The personnel record shall include:

1. an application, résumé, or staff information sheet that documents qualifications for the position;

2. any health records required by the facility;

3. annual performance evaluations and any reports and notes relating to the individual's employment with the facility;

4. documentation of the successful completion of orientation, training and demonstrations of competency, the dates of completion and the names of the persons certifying the completion of the orientation, training and demonstrations of competency;

5. date of employment; and

6. date and reason for leaving employment.

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 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012).

§9051. Volunteers

A. If a facility uses volunteers, the facility shall have a current, written volunteer policy.

B. Volunteers shall receive orientation before having contact with residents.

C. Volunteers shall work under the direct supervision of a paid staff member. They shall never be left alone or in charge of a resident or group of residents without a paid staff member present, unless they are a master's level or doctorate level student intern.

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 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012).

Subchapter E. Facility Operations

§9061. Food and Diet
[Formerly §9079]

A. The provider shall ensure that a resident is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary

allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council. The facility shall ensure that dietary services are provided by a Louisiana licensed registered dietician. The registered dietician shall be available regarding the nutritional needs, the special diets of individual children, and to assist in the development of policies and procedures for the handling, serving, and storage of food.

1. Menus shall be written and approved annually in writing by a registered dietician.

2. The provider shall develop written menus at least one week in advance.

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

B. A person designated by the administrator shall be responsible for the total food service of the facility. This person shall be responsible for:

1. initiating food orders or requisitions;

2. establishing specifications for food purchases and insuring that such specifications are met;

3. storing and handling of food;

4. food preparation;

5. food serving;

6. orientation, training and supervision of food service personnel;

7. maintaining a current list of residents with special nutritional needs;

8. having an effective method of recording and transmitting diet orders and changes;

9. recording information in the resident’s record relating to special nutritional needs; and

10. providing information on the resident’s diets to the staff.

C. The provider shall ensure that any modified diet for a resident shall be:

1. prescribed by the resident’s physician and treatment plan with a record of the prescription kept on file;

2. planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

D. The provider shall ensure that a resident is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast on the following day.

E. The provider shall ensure that the food provided to a resident in care of the provider is in accord with his/her religious beliefs.

F. No resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the resident's file.

G. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents in care, unless special dietary requirements dictate differences in diet.

H. The provider shall purchase and provide to the residents 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.

I. The provider shall ensure that food served to a resident and not consumed is discarded.

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 30:69 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012).

§9063. Admission, Transfer and Discharge Requirements

A. The written description of admissions policies and criteria shall be provided to the department upon request, and made available to the client and his/her legal representative.

B. A PRTF shall not refuse admission to any client on the grounds of race, national origin, ethnicity or disability.

C. A PRTF shall admit only those residents whose needs, pursuant to the certification of need and comprehensive plan of Care, can be fully met by the facility.

D. When refusing admission to a client, the PRTF shall provide a written statement to the resident with the reason for the refusal. This shall be provided to the designated representative(s) of the department upon request.

E. To be admitted into a PRTF, the individual must have received Certification of Need from the department or the department’s designee that recommends admission into the PRTF. The PRTF must ensure that requirements for certification are met prior to treatment commencing. The certification must specify that:

1. ambulatory care resources available in the community do not meet the treatment needs of the recipient;

2. proper treatment of the recipient’s psychiatric condition requires services on an inpatient basis under the direction of a physician; and

3. the services can reasonably be expected to improve the resident’s condition or prevent further regression so that the services will no longer be needed.

F. The PRTF shall use the certification of need to develop an initial plan of care to be used upon admission until a Comprehensive Plan of Care is completed.

G. Discharge planning begins at the date of admission, and goals toward discharge shall be continually addressed in the interdisciplinary team meetings and when the comprehensive plan of care is reviewed.

H. Voluntary Transfer or Discharge. Upon notice by the resident or authorized representative that the resident has selected another provider or has decided to discontinue services, the PRTF shall have the responsibility of planning for the resident's voluntary transfer or discharge. The transfer or discharge responsibilities of the PRTF shall include:

1. holding a transfer or discharge planning conference with the resident, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate a smooth transfer or discharge, unless the client declines such a meeting;

2. providing a current comprehensive plan of care. Upon written request and authorization by the resident or authorized representative, a copy of the current comprehensive treatment plan shall be provided to the resident or receiving provider;

3. preparing a written discharge summary. The discharge summary shall include, at a minimum, a summary on the health, developmental issues, behavioral issues, social issues, and nutritional status of the resident. Upon written request and authorization by the resident or authorized representative, a copy of the discharge summary shall be disclosed to the resident or receiving provider. The written discharge summary shall be completed within five working days of the notice by the resident or authorized representative that the resident has selected another provider or has decided to discontinue services. The provider's preparation of the discharge summary shall not impede or impair the resident's right to be transferred or discharged immediately if the resident so chooses; and

4. not coercing or interfering with the resident's decision to transfer. Failure to cooperate with the resident's decision to transfer to another provider may result in adverse action by the department.

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 38:386 (February 2012).

§9065. Health Care and Nursing Services [Formerly §9081]

A. Health Care

1. The provider shall have a written plan for providing preventive, routine and emergency medical and dental care for residents and shall show evidence of access to the resources outlined in the plan. This plan shall include:

a. ongoing appraisal of the general health of each resident;

b. provision of health education, as appropriate; and

c. provisions for keeping resident's immunizations current.

2. The provider shall ensure that a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the resident's parent or legal guardian, verbally/in writing, within 24 hours of a resident's illness or injury that requires treatment from a physician or hospital.

3. Records of all medical examinations, follow-ups and treatment together with copies of all notices to parent(s) or guardian(s) shall be kept in the resident's file.

4. Within 30 days of admission, the provider shall obtain documentation of a resident's immunization history, insuring that the resident has received all appropriate immunizations and booster shots that are required by the Office of Public Health.

B. Nursing Services

1. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction and supervision of a registered nurse licensed to practice in Louisiana, employed full time, 40 hours per week during normal business hours.

2. Written nursing policies and procedures shall define and describe the resident care provided. There shall be a written procedure to ensure that all nursing services are performed by nurses and that all licensed nurses providing care in the PRTF have a valid and current Louisiana license to practice, prior to providing any care.

3. Nursing services are either furnished or supervised and evaluated by a registered nurse as determined by the needs of the residents.

4. There shall be at least one registered or licensed practical nurse on duty on site at all times.

C. Medications

1. All PRTFs that store or dispense scheduled narcotics shall have a site-specific Louisiana dangerous substance license and a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

2. The provider shall have written policies and procedures that govern the safe administration and handling of all drugs as appropriate to the facility.

3. The provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

4. The provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

5. The provider shall have a written policy for handling medication taken from the facility by residents on pass.

6. The provider shall ensure that any medication given to a resident for therapeutic and medical purposes is in accordance with the written order of a physician.

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

b. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

c. Copies of all written orders shall be kept in the resident's file.

7. Proper disposal procedures shall be followed for all discontinued and outdated drugs and containers with worn, illegible or missing labels.

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

a. Drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets.

b. All drugs, including refrigerated drugs, shall be kept under lock and key.

9. The provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications including:

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

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

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

d. a description of an ongoing program to inform residents, staff, and where appropriate, resident's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medications and to involve residents and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication.

10. All compounding, packaging, and dispensing of drugs, biologicals, legend and controlled substances shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

11. Dispensing of prescription legend or controlled substance drugs direct to the public or resident by vending machines is prohibited.

12. Current and accurate records shall be maintained on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all Schedule I, II, III, IV and V drugs.

13. Medications are to be dispensed only upon written orders, electromechanical facsimile, or oral orders from a physician or other legally authorized prescriber, and be taken by a qualified professional.

14. All drug containers shall be labeled to show at least the resident's full name, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements as well as the expiration date shall be included.

15. Drugs and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

16. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician. An entry shall be made in the resident's record.

17. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the administrator, the Louisiana Board of Pharmacy, DHH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

18. All drugs and biologicals shall be administered in accordance with the orders of the practitioner(s) responsible for the resident's care and accepted standards of practice.

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 30:69 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:386 (February 2012).

§9067. Delivery of Services [Formerly §9083]

A. The PRTF shall have an on-going plan, consistent with available community and PRTF resources, to provide medical, dental, therapeutic, social, psychological, recreational, rehabilitative and educational services to meet the medically related needs of its residents.

B. Arrangement of Residents into Groups

1. The provider shall arrange residents into groups that effectively address the needs of the residents.

2. All residents shall have an opportunity to build relationships within small groups.

3. Residents shall be involved in decision making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

4. No more than 15 residents shall be in a group or unit.

5. The PRTF shall have a distinct unit for minors.

6. Groups shall be separated by gender.

C. The services provided by the PRTF must involve active treatment.

1. The team of professionals who shall develop the comprehensive plan of care shall be composed of physician(s) and other personnel who are employed by, or who provide services to the recipient in the facility. The team must be capable of assessing the recipient's immediate and long-range therapeutic needs, personal strengths and liabilities, potential resources of the recipient's family, capable of setting treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team must include, at a minimum, either:

a. a board-certified or board-eligible psychiatrist; or

b. a licensed clinical psychologist who has a doctorate degree and a physician licensed to practice medicine or osteopathy; or

c. a physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases and a psychologist who has a master's degree in clinical psychology.

2. The team must also include one of the following:

a. a psychiatric social worker;

b. a registered nurse with specialized training or one year of experience in treating individuals with mental illness;

c. a licensed occupational therapist with specialized training, or one year of experience in treating individuals with mental illness; or

d. a psychologist who has a master's degree in clinical psychology or who is licensed pursuant to R.S. 37:2351 et seq. or is a licensed medical psychologist pursuant to R.S. 37:1360.51.

4. The comprehensive plan of care is a written plan developed for each recipient to improve the recipient's condition to the extent that inpatient care is no longer necessary. The plan must:

a. be based on a diagnostic evaluation that includes examination of the medical, psychosocial, social, behavioral, and developmental aspects of the recipient's situation and reflects the need for PRTF services, including:

i. diagnoses, symptoms, complaints, and complications indicating the need for admission;

ii. a description of the functional level of the individual;

iii. any orders for medication and diet;

iv. restorative, social, and rehabilitation services;

v. treatment objectives;

vi. an integrated program of therapies, activities, and experiences designed to meet the objectives;

vii. plans for continued care, as appropriate; and

viii. post-discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school, and community upon discharge;

b. be developed and implemented no later than 14 days after the recipient's admission; and

c. be designed to achieve the recipient's discharge at the earliest possible time.

5. The plan must be reviewed as needed, but at a minimum of every 30 days by the facility treatment team to determine that services being provided are, or were, required on an inpatient basis and recommend changes in the plan as indicated by the recipient's overall adjustment as an inpatient.

D. The provider shall ensure that any provider of professional or special services (internal or external to the agency) meets the following:

1. are adequately qualified and, where appropriate, currently licensed or certified according to state or federal law;

2. have adequate space, facilities and privacy;

3. have appropriate equipment;

4. have adequate supplies;

5. have appropriate resources.

E. The PRTF shall also have an effective, on-going discharge planning program that facilitates the provision of follow-up care. The plan of care shall include, at an appropriate time, post-discharge plans and coordination of inpatient services, with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school and community upon discharge. Each resident's record shall be annotated with a note regarding the nature of post PRTF care arrangements. Discharge planning shall be initiated in a timely manner. Residents, along with necessary medical information (e.g., the resident's functional capacity, nursing and other care requirements, discharge summary, referral forms) shall be transferred or referred to appropriate facilities, agencies or services, as needed, for follow-up or ancillary care.

F. The PRTF shall provide or have available a therapeutic activities program.

1. The program must be appropriate to the needs and interests of patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

2. The number of qualified therapists, support personnel and consultants shall be adequate to provide comprehensive therapeutic activities consistent with each patient's treatment plan.

G. The provider shall have a written plan for insuring that a range of indoor and outdoor recreational and social opportunities are provided for residents. Such opportunities shall be based on both the individual interests and needs of the resident and the composition of the living group.

1. The provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to residents.

2. Any restrictions of recreational and social opportunities shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

3. The PRTF shall provide a minimum of three hours per week of social and/or recreational activities.

H. The provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

1. hygiene and grooming;

2. laundry and maintenance of clothing;

3. appropriate social skills;

4. housekeeping;

5. budgeting and shopping;

6. cooking; and

7. punctuality, attendance and other employment-related matters.

I. Each resident must have a minimum of one face-to-face contact with a psychiatrist each month and additional contacts for individuals from special risk populations, and as clinical needs of the resident dictate.

J. The services of qualified professionals and specialists from the following areas shall be provided by and in the PRTF when necessary to meet the needs of the residents:

1. medicine and dentistry;

2. nursing;

3. speech, occupational, and physical therapies;

4. psychology and psychiatry;

5. social work;

6. laboratory and diagnostic/radiology services;

7. optometry or ophthalmology; and

8. pharmacy activities.

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 30:70 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:388 (February 2012).

§9069. Transportation

A. The PRTF shall ensure that each resident is provided with the transportation necessary for implementation of the resident's treatment plan.

B. The PRTF shall provide or arrange transportation of its residents to and from the facility and is responsible for the safety of the residents during transport.

C. If the PRTF arranges transportation for participants through a transportation agency, the facility shall maintain a written contract which is signed by a facility representative and a representative of the transportation agency. The contract shall outline the circumstances under which transportation will be provided.

1. The written contract shall be dated and time limited and shall conform to these licensing regulations.

2. The transportation agency shall maintain in force at all times current commercial liability insurance for the operation of transportation vehicles, including medical coverage for residents in the event of an accident or injury. The PRTF shall maintain documentation of the insurance which shall consist of the insurance policy or current binder that includes the name of the transportation agency, the name of the insurance agency, policy number, and period of coverage and an explanation of the coverage.

D. Transportation arrangements shall conform to state laws, including laws governing the use of seat belts and resident restraints. Vehicles shall be accessible for people with disabilities or so equipped to meet the needs of the residents served by the PRTF.

E. The driver or attendant shall not leave a resident unattended in the vehicle at any time.

F. Vehicle and Driver Requirements

1. The vehicle shall be maintained in good repair with evidence of an annual safety inspection.

2. The use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting residents is prohibited.

3. The number of persons in a vehicle used to transport resident shall not exceed the manufacturer's recommended capacity.

4. The facility shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles used to transport resident on behalf of the PRTF.

5. The facility shall maintain in force at all times current commercial liability insurance for the operation of its vehicles, including medical coverage for residents in the event of accident or injury.

a. The policy shall extend coverage to any staff member who provides transportation for any resident in the course and scope of his/her employment.

b. Documentation shall consist of the insurance policy or current binder that includes the name of the PRTF, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

6. The vehicle shall have evidence of a current safety inspection.

7. There shall be first aid supplies in each facility or contracted vehicle.

8. Each driver or attendant shall be provided with a current master transportation list including each resident's name, pick-up and drop-off locations, and authorized persons to whom the resident may be released. Documentation shall be maintained on file at the PRTF whether transportation is provided by the facility or contracted.

9. The driver or attendant shall maintain an attendance record for each trip. The record shall include the driver's name, the date, names of all passengers (resident and adults) in the vehicle, and the name of the person to whom the resident was released and the time of release. Documentation shall be maintained on file at the facility whether transportation is provided by the facility or contracted.

10. There shall be information in each vehicle identifying the name of the administrator and the name, telephone number, and address of the facility for emergency situations.

G. Resident Safety Provisions

1. The driver plus one appropriately trained staff member shall be required at all times in each vehicle when transporting any resident. Staff shall be appropriately trained on the needs of each resident.

2. Each resident shall be safely and properly:

a. assisted into the vehicle;

b. restrained in the vehicle; and

c. assisted out of the vehicle.

3. Every resident shall be restrained in a single safety belt or secured in an American Academy of Pediatrics recommended, age appropriate safety seat.

4. The driver or appropriate staff person shall check the vehicle at the completion of each trip to ensure that no resident is left on the vehicle. Documentation shall include the signature of the person conducting the check and the time the vehicle is checked. Documentation shall be maintained on file at the PRTF whether transportation is provided by the facility or contracted.

5. During field trips, the driver or staff member shall check the vehicle and account for each resident upon arrival at, and departure from, each destination to ensure that no resident is left on the vehicle or at any destination. Documentation shall include the signature of the person conducting the check and the time the vehicle was checked for each loading and unloading of residents during the field trip.

6. Appropriate staff person(s) shall be present when each resident is delivered to the facility.

H. The provider shall have the means of transporting residents in cases of emergency.

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 38:389 (February 2012).

§9071. Resident Rights and Grievance Procedure [Formerly §9085]

A. Every resident shall have the following rights, none of which shall be abridged by the PRTF or any of its staff. The PRTF administrator shall be responsible for developing and implementing policies to protect resident rights and to respond to questions and grievances pertaining to resident rights. These rights shall include at least the following:

1. every resident, or his/her designated representative, shall whenever possible, be informed of the resident's rights and responsibilities in advance of furnishing or discontinuing resident care;

2. the right to have a family member, chosen representative and/or his or her own physician notified promptly of admission to the PRTF;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to receive, as soon as possible, the services of a translator or interpreter, if needed, to facilitate communication between the resident and the PRTF's health care personnel;

6. the right to participate in the development and implementation of his/her plan of care;

7. every resident or his/her representative (as allowed by state law) has the right to make informed decisions regarding his/her care;

8. the resident's rights include being informed of his/her health status, and being involved in care planning and treatment;

9. the right to be included in experimental research only when he/she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent resident in accordance with appropriate laws and regulations. The resident may refuse to participate in experimental research, including the investigations of new drugs and medical devices;

10. the right to be informed if the PRTF has authorized other health care and/or educational institutions to participate in the resident's treatment. The resident shall also

have a right to know the identity and function of these institutions;

11. the right to be informed by the attending physician and other providers of health care services about any continuing health care requirements after the resident's discharge from the PRTF. The resident shall also have the right to receive assistance from the physician and appropriate PRTF staff in arranging for required follow-up care after discharge;

12. the right to consult freely and privately with his/her parent(s) or legal guardian(s);

13. the right to consult freely and privately with legal counsel, as well as the right to employ legal counsel of his/her choosing;

14. the right to make complaints without fear of reprisal;

15. the opportunity for telephone communication;

16. the right to send and receive mail;

17. the right to possess and use personal money and belongings, including personal clothing, in accordance with the facility's policies;

18. the right to visit or be visited by family and friends subject only to reasonable rules and to any specific restrictions in the resident's treatment plan. Special restrictions shall be imposed only to prevent serious harm to the resident. The reasons for any special restrictions shall be recorded in the resident's treatment plan;

19. the right to have the individual resident's medical records, including all computerized medical information, kept confidential;

20. the right to access information contained in his/her medical records within a reasonable time frame subject to the exception contained in §9035.L.1.f;

21. the right to be free from all forms of abuse and harassment;

22. the right to receive care in a safe setting;

23. the right to be informed in writing about the PRTF's policies and procedures for initiation, review and resolution of resident complaints;

24. the provider shall ensure that each resident has access to appropriate educational services consistent with the resident's abilities and needs, taking into account his/her age and level of functioning;

25. the provider shall have a written description regarding the involvement of the resident in work including:

a. a description of any unpaid tasks required of the resident;

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

c. a description of the provider's approach to supervising work assignments;

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

e. all work assignments shall be in accordance with the resident's treatment plan;

f. the provider shall assign as unpaid work for the resident only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated, at such rate and under such conditions as the resident might reasonably be expected to receive for similar work in outside employment;

26. every resident shall be permitted to attend religious services in accordance with his/her faith. Residents shall not be forced to attend religious services; and

27. in addition to the rights listed herein, residents have the rights provided in the Louisiana Mental Health Law.

B. Grievance Procedure for Residents

1. The provider shall have a written grievance procedure for residents designed to allow residents to make complaints without fear of retaliation.

2. The provider shall document that the resident and the resident's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

3. The provider shall document the resolution of the grievance in the resident's record.

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 30:71 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:390 (February 2012).

Subchapter F. Physical Environment

§9075. General Provisions [Formerly §9061]

A. The PRTF shall be constructed, arranged and maintained to ensure the safety and well being of the resident.

B. Buildings

1. The buildings shall reflect good housekeeping and shall by means of an effective pest control program, be free of insects and rodents.

2. The PRTF shall maintain PRTF-wide ventilation, lighting and temperature controls.

3. There shall be a policy regarding the provision of services during any period in which the supply of electricity, natural gas, water and fuel is temporarily disrupted.

4. Doors leading into a facility or unit may be locked only in the direction of ingress.

5. Doors in the line of egress shall not be locked. Any deviation to allow the outermost doors in the line of egress

to be locked may only be made after approval has been given by the Office of the State Fire Marshal.

C. All PRTFs shall comply with established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal, including handicapped accessibility requirements.

1. Prior to new construction, additions, conversions or major alterations, PRTFs shall submit construction documents to the OSFM for review.

D. The PRTF shall comply with the rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health (OPH).

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 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:391 (February 2012).

§9077. Interior Space
[Formerly §9063]

A. The arrangement, appearance and furnishing of all of the interior areas of the facility shall be similar to those of a normal family home within the community.

B. The provider shall ensure that there is evidence of routine maintenance and cleaning programs in all of the areas of the facility.

C. Each living unit of a facility shall contain a space for the free and informal use of the residents. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the facility.

D. A facility shall have a minimum of 60 square feet of floor area per resident in living areas accessible to the residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

E. Resident Bedrooms

1. Single rooms must contain at least 80 square feet and multi-bed rooms shall contain at least 60 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment.

2. All PRTFs shall have bedroom space that does not permit more than two residents per designated bedroom.

a. Exception. If the facility maintains a valid child residential license from DCFS, has more than two residents per bedroom and is converting to a PRTF, the PRTF may have bedroom space that allows no more than four residents per designated bedroom.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area. In a room with varying ceiling height, 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 3 feet between beds.

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

6. There shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for resident use on each resident floor and additional toilets, lavatories, and bathing facilities to adequately meet the needs of employees, professional personnel and residents on each unit.

7. 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.

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

9. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each resident. Enuretic residents shall have mattresses with moisture resistant covers. Sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

10. Each resident 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 resident.

11. No resident over the age of five years shall occupy a bedroom with a member of the opposite sex.

12. The provider shall ensure that the ages of residents sharing bedroom space are not greater than four years in difference unless contraindicated based on diagnosis, the treatment plan, or the behavioral health assessment of the resident.

13. Each client shall have his/her own bed. A client's bed shall be longer than the client is tall, no less than 30 inches wide, of solid construction and shall have a clean, comfortable, nontoxic fire retardant mattress.

14. Mobile homes shall not be used for resident sleeping areas.

15. The use of bunk beds is prohibited in resident bedrooms.

16. If the PRTF has a sexually-based treatment program, the residents of that program shall reside in its own unit or wing of the PRTF that is separate from the unit or wing housing the other residents. Residents of the sexually-based treatment program shall reside in single rooms with only one bed per bedroom.

F. Dining Areas

1. The facility shall have dining areas that permit residents, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated, and attractively furnished.

G. Bathrooms

1. 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 resident care needs.

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

b. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless residents are individually given such items. Residents shall be provided individual items such as hair brushes and toothbrushes.

c. Tubs and showers shall have slip proof surfaces.

d. The PRTF shall have at a minimum the following:

i. one lavatory per eight male residents and one lavatory per eight female residents;

ii. one toilet per eight male residents and one toilet per eight female residents; and

iii. one shower or tub per eight male residents and one shower or tub per eight female residents.

2. A facility shall have toilets and baths or showers that allow for individual privacy unless the residents in care require assistance.

3. Toilets, wash basins and other plumbing or sanitary facilities in a facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

H. Kitchens

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

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

I. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from resident's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have a designated space to allow private discussions and counseling sessions between individual residents and staff, excluding, bedrooms and common living areas.

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents shall be appropriately designed to suit the size and capabilities of the residents.

2. The provider shall promptly replace or repair broken, run-down, or defective furnishings and equipment.

K. Doors and Windows

1. The provider shall provide insect screens for all windows that can be opened. The screens shall be in good repair and readily removable in emergencies.

2. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

3. Windows or vents shall be arranged and located so that they can be opened from the inside to permit venting of combustion products and to permit occupants direct access to fresh air in emergencies. The operation of windows shall be restricted to inhibit possible escape or suicide. If the PRTF has an approved engineered smoke control system, the windows may be fixed. Where glass fragments pose a hazard to certain residents, safety glazing and/or other appropriate security features shall be used. There shall be no curtain or venetian blind chords.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and in safe condition.

2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

N. Heating, Ventilation and Air Conditioning

1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all clients.

2. The provider shall not use open flame heating equipment or portable electrical heaters.

3. All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the recommended procedures of the American Gas Association Testing Laboratories, Inc.

4. All heating units must be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

O. Smoking shall be prohibited in all areas of the PRTF.

P. The layout, design of details, equipment and furnishings shall be such that patients shall be under close observation and shall not be afforded opportunities for hiding, escape or injury to themselves or others. The environment of the unit shall be characterized by a feeling of

openness with emphasis on natural light and exterior views. Interior finishes, lighting and furnishings shall suggest a residential rather than an institutional setting while conforming with applicable fire safety codes. Security and safety devices shall not be presented in a manner to attract or challenge tampering by patients.

Q. Seclusion Room

1. A PRTF shall have a seclusion room. This room shall be free of potentially hazardous conditions such as unprotected light fixtures and electrical outlets.

2. The room(s) shall be either located for direct nursing staff supervision or observed through the use of electronic monitoring equipment. If electronic monitoring equipment is used, it shall be connected to the facility's emergency electrical source.

3. Each room shall be for single occupancy and contain at least 60 square feet. It shall be constructed to prevent patient hiding, escape, injury or suicide.

R. Where grab bars are provided, they shall be institutional type, shall not rotate within their fittings, be securely fastened with tamper-proof screw heads, and shall be free of any sharp or abrasive elements. If grab bars are mounted adjacent to a wall, the space between the wall and the grab bar shall be 1 1/2 inches.

S. Where towel racks, closet and shower curtain rods are provided, they shall be the breakaway type.

T. Plastic bags and/or trash can liners shall not be used in patient care areas.

U. The provider shall have a laundry space complete with a minimum of one clothes washer and dryer for each 50 persons.

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 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:391 (February 2012), LR 39:2510 (September 2013).

§9079. Facility Exterior [Formerly §9065]

A. The provider shall maintain all areas of the facility that are accessible to the residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

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

2. Trash collection receptacles and incinerators shall be separate from recreation/play areas and located as to avoid being a nuisance.

3. Recreation/playground equipment shall be so located, installed, and maintained as to ensure the safety of the residents.

4. 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 residents.

5. Fences that are in place shall be in good repair.

6. Residents shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

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

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 30:67 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:393 (February 2012).

§9081. Equipment [Formerly §9067]

A. Equipment shall be clean and in good repair for the safety and well-being of the residents.

B. Therapeutic, diagnostic and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection.

D. After discharge of a resident, the bed, mattress, cover, bedside furniture and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to residents shall be in a sanitary condition. The mattress, blankets and pillows used for a resident with an infection shall be sanitized in an acceptable manner before they are assigned to another resident.

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 30:68 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:393 (February 2012).

Subchapter G. Emergency Preparedness

§9083. Safety and Emergency Preparedness

A. The PRTF shall have an emergency preparedness plan designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency.

B. Upon the department's request, a facility shall present its emergency preparedness plan for review. At a minimum, the emergency preparedness plan shall include and address the following.

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

2. The facility's plan shall be submitted to the parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) yearly and verification of this submittal maintained in the plan. Any recommendations by the parish or local OHSEP regarding the facility's plan shall be documented and addressed by the PRTF.

3. The facility's plan shall contain census information, including transportation requirements for the PRTF residents as to the need for:

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

b. the numbers of PRTF residents that do not have any special transport needs.

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

a. the areas in the facility, either in the resident's individual unit or apartment or the PRTF, that is to be used by residents as shelter or safe zones during emergencies;

b. the location of emergency power outlets (if none are powered or all are powered, this shall be stated on the plan);

c. the locations of posted, accessible, emergency information;

d. the plan shall provide for floor plans or diagrams to be posted in each resident's room and shall clearly indicate that specific room or apartment's location, the fire exits, the fire evacuation routes, locations of alarm boxes and fire extinguishers, and written fire evacuation procedures shall be included on one plan; and

i. a separate floor plan or diagram with safe zones or sheltering areas for non fire emergencies shall indicate areas of building, apartments, or rooms that are designated as safe or sheltering areas;

e. the detail of what will be powered by emergency generator(s), if applicable.

C. The facility's plan shall be viable and promote the health, safety and welfare of the facility's residents. If the plan is found to be deficient the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

D. The facility will work in concert with the local OHSEP or Office of Emergency Preparedness (OEP) in developing plans.

E. The facility shall provide a plan for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials. This plan will include:

1. who will monitor;

2. what equipment will be used; and

3. procedures for notifying the administrator or responsible persons.

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

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

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

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

1. the date and approximate time that the facility is evacuating; and

2. the place or location to which the facility is evacuating, including the:

a. name;

b. address; and

c. telephone number.

J. The plan shall include the procedure or method whereby each facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation, and whose duty and responsibility this will be. The following minimum information shall be included with the resident:

1. current and active diagnosis;

2. medications, including dosage and times administered;

3. allergies;

4. special dietary needs or restrictions; and

5. next of kin or responsible person and contact information.

K. The plan shall include an evaluation of the building and necessary systems to determine the ability to withstand wind, flood, and other local hazards that may affect the facility. If applicable, the plan shall also include an evaluation of each generator's fuel source(s), including refueling plans and fuel consumption.

L. The plan shall include an evaluation of the facility's surroundings to determine lay-down hazards, objects that could fall on the facility, and hazardous materials in or around the facility, such as:

1. trees;

2. towers;

3. storage tanks;

4. other buildings;

5. pipe lines;

6. chemicals;

7. fuels; or

8. biologics.

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

1. A facility is considered to be sheltering in place for a storm if the facility elects to stay in place rather than evacuate when located in the projected path of an approaching storm of tropical storm strength or a stronger storm.

NOTE: Tropical storm strength shall be defined as a tropical cyclone in which the maximum sustained surface wind speed (using the U.S. 1 minute average standard) ranges from 34 kt (39 mph 17.5 m/s) to 63 kt (73 mph 32.5 mps).

2. If sheltering in place, the facility has elected to take this action after reviewing all available and required information on the storm, the facility, the facility's surroundings, and consultation with the local or parish OHSEP.

3. The facility accepts all responsibility for the health and well-being of all residents that shelter with the facility before, during, and after the storm. In making the decision to shelter in place or evacuate, the facility shall consider the following:

a. what conditions will the facility shelter for;

b. what conditions will the facility close or evacuate for; and

c. when will these decisions be made.

4. If the facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies to be provided by the facility prior to the emergency event, to include drinking water or fluids and non-perishable food.

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

O. The facility's plan shall include how the PRTF will notify OHSEP and DHH when the decision is made to shelter in place and whose responsibility it is to provide this notification.

P. The facility shall have a plan for an on-going safety program to include:

1. continuous inspection of the facility for possible hazards;

2. continuous monitoring of safety equipment and maintenance or repair when needed;

3. investigation and documentation of all accidents or emergencies;

4. fire control and evacuation planning with documentation of all emergency drills:

a. residents can be informed of emergency drills;

5. all aspects of the facility's plan, planning, and drills shall meet the current requirements of the Office of the State Fire Marshal, and the Life Safety Code National Fire Protection Association (NFPA) 101; and

6. the facility shall inform the resident and/or responsible party of the facility's emergency plan and the actions to be taken.

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 38:394 (February 2012).

§9085. Emergency Plan Activation, Review, and Summary

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

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

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

2. The facility shall test at least one manual pull alarm each month of the year and maintain documentation of test

dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:395 (February 2012).

§9087. Notification

A. Emergency preparedness procedures shall specify the following:

1. persons to be notified;

2. process of notification;

3. verification of notification;

4. locations of emergency equipment and alarm signals;

5. evacuation routes;

6. procedures for evacuating residents;

7. procedures for re-entry and recovery;

8. frequency of fire drills;

9. tasks and responsibilities assigned to all personnel; and

10. medications and records to be taken from the facility upon evacuation and to be returned following the emergency.

B. A PRTF shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

C. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the PRTF must immediately give notice to the Health Standards Section and OHSEP by facsimile or email of the following:

1. the date and approximate time of the evacuation; and

2. the locations of where the residents have been placed, whether this location is a host site for one or more of the PRTF residents.

D. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the PRTF must immediately give notice to the Health Standards Section by facsimile or email of the following:

1. the date and approximate time of the evacuation; and

2. the locations of where the residents have been placed, whether this location is a host site for one or more of the PRTF residents.

E. If there are any deviations or changes made to the locations of the residents that was given to the Health Standards Section and OHSEP, then both Health Standards and OHSEP shall be notified of the changes within 48 hours of their occurrence.

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 38:396 (February 2012).

§9089. Authority to Re-Open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation

A. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state, local, or parish OHSEP, due to a declared disaster or other emergency, and that facility sustains damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Health Standards Section, and the facility has received a letter of approval from the department for reopening the facility.

1. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

B. If a PRTF evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and the facility does not sustain damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility may be reopened without the necessity of the required surveys.

1. Prior to reopening, the facility shall notify the Health Standards Section in writing that the facility is reopening.

C. The facility shall submit a written initial summary report to the department's Health Standards Section. This report shall be submitted within 14 days from the date of the emergency event which led to the facility having to evacuate, temporarily relocate or temporarily cease operations. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;

2. plan provisions that were not followed;

3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

4. contingency arrangements made for those plan provisions not followed; and

5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of the injuries and deaths.

D. If a facility shelters in place at its licensed location during a declared disaster or other emergency, the facility shall submit a written initial summary report to the department's Health Standards Section. This report shall be submitted within 14 days from the date of the emergency event which led to the facility having to shelter in place. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;

2. plan provisions that were not followed;

3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

4. contingency arrangements made for those plan provisions not followed; and

5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

E. Upon request by the department's Health Standards Section, a report that is more specific and detailed regarding the facility's execution of their emergency plan shall be submitted to the department.

F. Inactivation of License due to Declared Disaster or Emergency

1. A licensed PRTF licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

a. the licensed PRTF provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

i. the PRTF has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster;

ii. the licensed PRTF intends to resume operation as a PRTF in the same service area;

iii. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

iv. includes an attestation that all residents have been properly released or transferred to another provider; and

v. provides a list of each resident's name and the location where that resident has been released or transferred to;

b. the licensed PRTF resumes operating as a PRTF in the same service area within one year of the issuance of such an executive order or proclamation of emergency or disaster;

c. the licensed PRTF continues to pay all fees and costs due and owed to the department including, but not limited to:

i. annual licensing fees; and

ii. outstanding civil monetary penalties; and

d. the licensed PRTF continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to inactivate a PRTF license, the department shall issue a notice of inactivation of license to the PRTF.

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

a. the PRTF shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening;

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

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees, approval from the Office of Public Health and the Office of State Fire Marshal; and

d. the provider resumes operating as a PRTF in the same service area within one year.

4. Upon receiving a completed written request to reinstate a PRTF license, the department shall schedule a licensing survey. If the PRTF meets the requirements for licensure and the requirements under this Subsection, the

department shall issue a notice of reinstatement of the PRTF license.

5. No change of ownership in the PRTF shall occur until such PRTF has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a PRTF.

6. The provisions of this Subsection shall not apply to a PRTF which has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the PRTF 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 38:396 (February 2012).

Subchapter H. Additional Requirements for Mental Health PRTFs

§9091. General Provisions

A. A mental health PRTF is a PRTF that provides inpatient psychiatric services to its residents who are suffering from mental illness, or who are suffering from co-occurring mental illness and a substance abuse/addiction disorder. In addition to the provisions applicable to all PRTFs, a mental health PRTF shall comply with the provisions of this Subchapter.

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).

§9093. Personnel Qualifications, Responsibilities, and Requirements

A. A mental health PRTF shall have the following minimum personnel:

1. Administrator. The administrator must have a Bachelor's degree from an accredited college or university in a mental health-related field, plus at least five years of related experience. The administrator is responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

a. Grandfathering Provision. For a facility with a current child residential license from DCFS at the time of the promulgation of this rule, the current administrator may remain the administrator of the facility provided the following conditions are met.

i. The administrator has been the administrator on a full time basis for the facility for at least five years.

ii. The administrator was approved by the governing body to hold the position of administrator of the PRTF.

iii. An administrator under this grandfathering provision may not transfer as an administrator to another PRTF.

2. Clinical Director

a. The clinical director shall be a physician holding an unrestricted license to practice medicine in Louisiana and who has the following:

i. unrestricted Drug Enforcement Agency (DEA) and state controlled substance licenses;

ii. if the license(s) is from another jurisdiction, the license(s) must be documented in the employment record and must also be unrestricted;

iii. board-certification in general psychiatry; and

iv. satisfactory completion of a specialized psychiatric residency training program accredited by the Accreditation Council for Graduate Medical Education (ACGME), as evidenced by a copy of the certificate of training or a letter of verification of training from the training director, which includes the exact dates of training and verification that all ACGME requirements have been satisfactorily met. If the training was completed in a psychiatric residency program not accredited by the ACGME, the physician must demonstrate that he/she meets the most current requirements as set forth in the American Board of Psychiatry and Neurology's board policies, rules and regulations regarding information for applicants for initial certification in psychiatry.

b. The clinical director is responsible for the following:

i. 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). the governing body may delegate some or all of this responsibility to another physician(s) who meets the qualifications of a clinical director; and

ii. monitoring and evaluating the quality and appropriateness of services and treatment provided by the facility's direct care staff.

3. LMHPs, MHPs, and MHSs. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs, and MHSs to care for its residents. There shall be at least one LMHP or MHP supervisor on duty at least 40 hours/week during normal business hours at the facility and as required by the treatment plan. When not on duty at the facility, there shall be a LMHP or MHP on call. The PRTF shall develop a policy to determine the number of LHMPs, MHPs, MHSs on duty and the ratio of LHMPs and MHPs to MHSs based on the needs of its residents.

a. A LMHP or a MHP shall be designated and assigned as treatment plan manager for each resident and given responsibility for and authority over those activities detailed in the minimum licensure requirements, including:

i. supervision of the treatment plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications; and

iv. serving as liaison between the resident, provider, family, and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider.

b. A LMHP or MHP shall provide for each resident a minimum weekly total of 120 minutes of individual therapy.

c. A LMHP or MHP shall provide a minimum of two group therapy sessions per week for each resident.

d. A LMHP or MHP shall have a maximum caseload not to exceed 12 residents.

e. LMHPs, MHPs, and MHSs shall be responsible for:

i. evaluating residents;

ii. formulating written individualized plans of care;

iii. providing active treatment measures; and

iv. engaging in discharge planning.

f. The MHSs shall be under the supervision of LMHPs and/or MHPs to assist with the duties and requirements of the PRTF.

4. Psychologist. Psychological services shall be provided by, or supervised by, a psychologist with a doctorate degree from an accredited program in clinical or counseling psychology and with appropriate post-graduate experience. The PRTF shall provide or have available a psychologist to provide psychological testing and psychological services, as necessary to assist in essential diagnostic formulations as requested, and participate in program development and evaluation of program effectiveness, in therapeutic interventions and in treatment plan team meetings. Psychological services may be provided directly or by contract.

5. Registered Nurse

a. A registered nurse licensed to practice in Louisiana shall oversee and direct the nursing services of the PRTF. He/she shall be employed full time and be on-site 40 hours per week during normal business hours.

b. Nursing services shall be provided by or supervised by a registered nurse licensed to practice in Louisiana. There shall be an adequate number of registered nurses, licensed practical nurses, and other staff, to provide the nursing care necessary under each resident's treatment plan. When no RN is on site, there shall be an RN available to be on-site within 30 minutes as needed.

6. Physician. The PRTF shall have available a physician licensed in the state of Louisiana who shall assume 24-hour on-call medical responsibility for non-emergent physical needs of the facility's residents.

7. A licensed dietician, whether provided directly or by contract, shall be responsible for the dietary services program of the PRTF.

B. If the PRTF is providing both mental health and substance abuse treatment, the PRTF must also meet the staffing requirements for the resident's ASAM level required by the department, or the department's designee, in addition to the mental health PRTF requirements.

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 42:279 (February 2016).

Subchapter I. Additional Requirements for Addictive Disorder PRTFs

§9095. General Provisions

A. An addictive disorder PRTF is a PRTF that provides inpatient psychiatric services to its residents who are admitted primarily for treatment for substance abuse or addictive disorders, not including mental illness. In addition to the provisions applicable to all PRTFs, an addictive disorder PRTF shall comply with the provisions of this Subchapter.

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 38:398 (February 2012).

§9097. Personnel Qualifications, Responsibilities, and Requirements for Addictive Disorder PRTFs

A. An addictive disorder PRTF shall have the following minimum personnel.

1. Administrator. The administrator must have a bachelor's degree from an accredited college or university in a mental health-related field, plus at least five years of related experience. The administrator is responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

a. Grandfathering Provision. For a facility with a current substance abuse license from DHH at the time of the promulgation of this final Rule, the current administrator may remain the administrator of the facility provided the following conditions are met.

i. The administrator has been the administrator on a full time basis for the facility for at least five years.

ii. The administrator was approved by the governing body to hold the position of administrator of the PRTF.

iii. An administrator under this grandfathering provision may not transfer as an administrator to another PRTF.

2. Clinical Director

a. The clinical director shall be a physician holding an unrestricted license to practice medicine in Louisiana and who has the following:

i. unrestricted DEA and state controlled substance licenses;

ii. if the license(s) is from another jurisdiction, the license(s) must be documented in the employment record and must also be unrestricted; and

iii. one of the following:

(a). board certification in general psychiatry and is eligible for certification in the subspecialty of addiction psychiatry by the American Board of Psychiatry and Neurology (ABPN);

(b). board eligible in general psychiatry with ABPN and has current certification in addiction psychiatry by the American Society of Addiction Medicine (ASAM); or

(c). an ABMS board-certified physician (non-psychiatrist) with ASAM certification and consultation with an ABPN board-certified psychiatrist. Proof of consultation shall be a current contract with a board-certified psychiatrist and written documentation of consults in the client's medical record.

b. The clinical director is responsible for the following:

i. providing a monthly minimum of one hour of on-site clinical direction per resident;

(a). the governing body may delegate some or all of this responsibility to another physician(s) who meets the qualifications of a clinical director); and

ii. monitoring and evaluating the quality and appropriateness of services and treatment provided by the facility's direct care staff.

3. LMHPs, MHPs and MHSs. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs and MHSs to care for its residents. There shall be at least one LMHP or MHP supervisor on duty at least 40 hours/week during normal business hours at the facility and as required by the treatment plan. When not on duty at the facility, there shall be a LMHP or MHP on call. The PRTF shall develop a policy to determine the number of LHMPs, MHPs, MHSs on duty and the ratio of LHMPs and MHPs to MHSs based on the needs of its residents.

a. A LMHP or a MHP shall be designated and assigned as treatment plan manager for each resident and given responsibility for and authority over those activities detailed in the minimum licensure requirements, including:

i. supervision of the treatment plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications; and

iv. serving as liaison between the resident, provider, family, and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider.

b. A LHMP or MHP shall provide a minimum of three individual therapy sessions each week for each resident (a minimum weekly total of 120 minutes) and a minimum of two group therapy sessions per week for each resident; for detoxification programs, there shall be at least 25 hours of structured treatment activities per week including counseling and educational activities.

c. LMHPs, MHPs, and MHSs shall be responsible for:

i. evaluating residents;

ii. formulating written individualized plans of care;

iii. providing active treatment measures; and

iv. engaging in discharge planning.

d. The MHSs shall be under the supervision of LMHPs and/or MHPs to assist with the duties and requirements of a PRTF.

4. Psychologist. Psychological services shall be provided by or supervised by a psychologist with a doctorate degree from an accredited program in clinical or counseling psychology and with appropriate post-graduate experience. The PRTF shall provide or have available a psychologist to provide psychological testing and psychological services, as necessary to assist in essential diagnostic formulations as requested, and participate in program development and evaluation of program effectiveness, in therapeutic interventions and in treatment plan team meetings. Psychological services may be provided directly or by contract. PRTFs that provide only a detoxification program are not required to provide a psychologist.

5. Registered Nurse

a. A registered nurse licensed to practice in Louisiana shall oversee and direct the nursing services of the PRTF. He/she shall be employed full time and be on-site 40 hours per week during normal business hours.

b. Nursing services shall be provided by or supervised by a registered nurse licensed to practice in Louisiana. There shall be an adequate number of registered

nurses, licensed practical nurses, and other staff, to provide the nursing care necessary under each resident's treatment plan. When no RN is on site, there shall be an RN available to be on-site within 30 minutes as needed.

6. Physician. The PRTF, except one that provides a social detoxification program only, shall have available a physician licensed in the state of Louisiana who shall assume 24-hour on-call medical responsibility for non-emergent physical needs of the facility's residents; the PRTF may have a licensed nurse practitioner or physician's assistant in place of the physician provided he/she works under a licensed physician.

7. A licensed dietician, whether provided directly or by contract, shall be responsible for the dietary services program of the PRTF.

B. The PRTF shall abide by the staffing requirements for the ASAM level of the admitted resident required by the department or the department's designee.

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 38:399 (February 2012), amended LR 39:2511 (September 2013).

Chapter 91. Minimum Standards for Home Health Agencies

§9101. Definitions

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Activities of Daily Living (ADL)Bthe functions or tasks which are performed either independently or with supervision or assistance:

a. mobility;

b. transferring;

c. walking;

d. grooming;

e. bathing;

f. dressing and undressing;

g. eating; and

h. toileting.

Administrator—a person who is designated in writing as administratively responsible and available in person or by telecommunication at all times for all aspects of an agency's operations.

Advisory Board—a group of persons who meet with agency staff and/or owners as frequently as needed, but at least once every year, to evaluate the overall functions of the agency.

Allied Health Personnel—nursing assistants, licensed practical nurses, licensed physical therapy assistants, and other health care workers who require supervision by other health care professionals.

Branch—an office from which a home health agency provides services within a portion of the total geographic service area served by the parent agency. The *branch* office is part of the parent home health agency; is located within a 50-mile radius of the parent agency; and shares administration and supervision. (See ∋9117, Operation of Branch Offices.)

Bureau—Bureau of Health Services Financing.

Change of Ownership (CHOW)—the sale or transfer of all or a portion of the assets or other equity interest in a home health agency. Examples of actions that constitute a change of ownership include:

a. unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership;

b. corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership. Admission of a new member to a nonprofit corporation is not a change of ownership;

c. limited liability company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership;

d. partnership. In the case of a partnership, the removal, addition, or substitution, of a partner, unless the partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership.

Clinical Note—a written notation of each visit with a patient which shall include the date and time of the visit, services rendered, and the signature of person providing services. The note may also include any pertinent information related to the visit. (See ∋9129.B Clinical Note.)

Clinical Records—those documents maintained on all patients accepted for care by a home health agency. The records shall be retained in accordance with existing state law.

Controlling Ownership or Controlling Interest—an equity or voting interest possessed by a person or entity that:

a. has a direct or indirect equity interest equal to 5 percent or more in the capital, the stock, or the profits of a home health agency; or

b. is an officer or director of a home health agency which is organized as a corporation; or

c. is a partner in a home health agency which is organized as a partnership; or

d. is a member or manager of a home health agency which is organized as a limited liability company. The term *controlling ownership* is synonymous with the terms