

**TITLE 48**

**PUBLIC HEALTH — GENERAL**

**PART I. GENERAL ADMINISTRATION**

**SUBPART 3. LICENSING AND CERTIFICATION**

**Chapter 81. Respite Care**

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

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Title 48  
PUBLIC HEALTH - GENERAL  
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Subpart 3. Licensing and Certification

**Chapter 81. Respite Care**

**§8801. Initial Application Process**

A. All respite care services providers (RCSP) shall be licensed by the Department of Health and Hospitals (DHH). DHH is the only licensing authority for direct service providers in the State of Louisiana. It shall be unlawful to operate an RCSP agency without DHH licensure.

B. An application packet for licensing as an RCSP shall be obtained from the Department. A completed application packet for the RCSP shall be submitted to and approved by the Department prior to an applicant providing services.

C. A separately licensed RCSP shall not use a doing business as (DBA) name which is the same as the name of another RCSP licensed by the Department.

D. An initial applicant shall submit a completed licensing packet including:

1. a licensing application with accompanying non-refundable fee;
2. a disclosure of ownership;

3. approval of the premises from the Office of the State Fire Marshal;

4. a health inspection certification of the premises from the Office of Public Health;

5. a zoning approval from local governmental authorities;

6. a criminal background check on all owners unless the owner holds a professional license issued by a state licensing board;

7. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less, or a letter of credit equal to \$100,000 or the cost of three months of operation, whichever is less.

8. proof of financial viability; and

9. an organizational chart with the names and position titles of persons currently employed.

E. If the applicant fails to submit a completed licensing packet within 90 days of the date the initial application is received, the application shall be closed. In order to start the process again, the applicant must submit a new packet and initial licensing fee.

F. Once an applicant is notified in writing by the Department that their application is approved, they must contact the Department within 30 days from the date of the notice to

schedule an initial survey. Failure to do so shall result in the application being denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2432 (November 2007).

**§8103. Review of Applications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repealed by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2433 (November 2007).

**§8104. Surveys**

A. Upon approval of the initial application by the Department, the applicant will receive a letter so they may operate temporarily pending an initial licensure survey to determine if the RCSP is in compliance with all licensing

regulations. Prior to scheduling and approval of the initial survey, applicants must be fully operational, in compliance with all licensing standards and providing care to only one client at the time of the initial survey. The RCSP shall notify the Department at the time that services are initiated for the client and must provide the client with the Department's toll free complaint line number.

B. In the event the initial licensing survey reveals that a RCSP is non-compliant with regulations and it is determined that the non-compliance poses a threat to the health and safety of a client, the Department shall deny the initial license. The RCSP shall transfer the one client and close immediately.

C. The Department shall conduct a licensing survey at intervals as it deems necessary to determine compliance with licensing regulations. These surveys shall be unannounced.

D. The Department shall conduct a complaint investigation for a complaint received against an RCSP. A complaint survey shall be unannounced.

E. An RCSP shall make any information which the RCSP is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to representatives of DHH.

F. If a deficient practice is cited during any licensing or complaint survey, the RCSP must submit a plan of correction

and a follow-up survey may be conducted to ensure correction of the deficient practice(s).

G. Sanctions may be imposed by the Department for violation of any state or federal statute, regulation or rule governing health care services as authorized by R.S. 40:2199.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2433 (November 2007).

**§8105. Issuance of a License**

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

1. A full license may be issued only to applicants that are in substantial compliance with all applicable federal, state, local laws, regulations and rules. The license shall be valid until the expiration date shown on the license unless the Department determines otherwise.

2. A provisional license may be issued to those existing licensed RCSP which do not meet the criteria for full

licensure. A provisional license shall be valid for not more than six months.

a. An RCSP with a provisional license may be issued a full license if, at the follow-up survey, the RCSP has corrected the deficient practice(s). A full license will be issued for the remainder of the year until the RCSP's license anniversary date.

b. The Department may re-issue a provisional license or initiate a revocation of a provisional license when the RCSP fails to correct deficient practice(s) within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

c. A provisional license may be issued by the Department for the following reasons including, but not limited to:

i. the RCSP has more than five deficient practices during any one survey or the scope and severity of any deficiency cited places person(s) receiving services at risk for more than minimal harm;

ii. the RCSP has more than three valid complaints during a one-year period;

iii. there is a documented incident placing a client at risk; or

iv. the RCSP fails to correct deficient practices within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

B. The license shall be posted in a conspicuous place on the premises.

C. A license shall be valid only for the RCSP to which it is issued and only for that specific geographic business address. A license shall not be subject to sale, assignment, or other transfer, voluntary or involuntary.

D. Any change regarding the RCSP's name, geographical or mailing address, telephone number, operational hours or key administrative staff or any combination thereof, must be reported in writing to the Health Standards Section within five working days of the change. Any change which requires a change in the license shall be accompanied by a twenty five dollar fee. A request for a duplicate license shall be accompanied by a \$25 fee.

E. When a change of ownership (CHOW) occurs, the RCSP shall notify the Health Standards Section in writing at least 15 days prior to the effective date of the CHOW. A copy of the legal document showing the transfer of ownership shall be provided to Health Standards at least five working days prior to the effective date of the CHOW. The license of an RCSP is not transferable to any other RCSP or individual. A license cannot

be sold. The new owner must submit all documents required for a new license including the licensing fee.

F. A license renewal fee must be submitted annually to the Department prior to the expiration of the license.

G. An RCSP that is under license revocation or has voluntarily surrendered their license may not undergo a change of ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2433 (November 2007).

**§8107. Types of Licenses and Expiration Dates**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:24621 (December 1999), repealed by

the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2434 (November 2007).

**§8109. Reapplication**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:2461 (December 1999), repealed by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2434 (November 2007).

**§8111. The Denial, Revocation, or Non-Renewal of a License**

A. The Department may deny an application for a license, refuse to renew a license or revoke a license in accordance with the provisions of the Administrative Procedures Act. There shall be no appeal if the license has expired.

B. An RCSP's license may not be renewed or may be revoked for any of the following reasons including, but not limited to:

1. failure to be in substantial compliance with the RCSP licensing regulations;

2. failure to uphold client rights whereby deficient practice may result in harm, injury or death of a client;

3. failure to protect a client from a harmful act of an employee including, but not limited to:

a. abuse, neglect, exploitation and extortion;

b. an action posing a threat to a client or public health and safety;

c. coercion;

d. threat;

e. intimidation; or

f. harassment;

4. failure to follow federal or state law regarding notification of all suspected cases of neglect, criminal activity, or mental or physical abuse, or any combination thereof;

5. knowingly making a false statement in any of the following:

a. application for licensure;

b. data forms;

c. clinical records;

d. matters under investigation by the Department or Attorney General's office; or

e. information or billing submitted for reimbursement from any payment source;

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

7. an owner or administrator pleading guilty or nolo contendere to a felony or being convicted of a felony as documented by a certified copy of the court record. If the applicant is a firm or corporation, a license may also be immediately denied or revoked when any of its members, officers, or the person designated to manage or supervise client care is convicted of a felony. For purposes of this paragraph, conviction of a felony means and includes:

a. conviction of a criminal offense related to that person's involvement in any program under Medicaid or a Title XIX services program since the inception of these programs;

b. conviction of a felony relating to violence, abuse, and/or neglect of a person; or

c. conviction of a felony related to the misappropriation of property belonging to another person;

8. failure to comply with all reporting requirements in a timely manner as requested by the Department;

9. documented evidence that the RCSP or any representative thereof has offered or received a bribe, harassed, solicited or received anything of economic value for

the referral of any individual to use the services of any particular RCSP; or

10. non-operational status.

C. In the event a license is revoked or denied renewal or voluntarily surrendered their license, no other Personal Care Assistant, Respite, Supervised Independent Living, Adult Day Care or Family Support service license application shall be accepted by the Department from the owners of the revoked or denied agency for review and approval for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2434 (November 2007).

**§8112. Notice and Appeal**

A. Notice of the Department's actions against the RCSP shall be given in accordance with the current state statutes.

B. Administrative Reconsideration. An RCSP may request an administrative reconsideration of a deficiency which is the

basis of the Department's action. An administrative reconsideration is an informal process conducted by a designated Department official who did not participate in the initial decision to impose the adverse action. An administrative reconsideration shall be made solely on the basis of documents or oral presentations, or both, before the designated official and shall include the survey report, a statement of deficiency and any documentation the service provider may submit to the Department when requesting the reconsideration. Correction of a deficiency shall not be a basis for reconsideration and an administrative reconsideration hearing may be held. A department spokesman and an RCSP services spokesman may make an oral presentation to the designated official during the administrative reconsideration. An administrative reconsideration is not in lieu of the administrative appeals process and does not extend the time limits for filing an administrative appeal under the provisions of Administrative Procedure Act. The designated official shall have the authority to affirm the decision, to revoke the decision, to affirm part or revoke in part or to request additional information from either the Department or the RCSP.

C. Administrative Appeal Process. Upon denial or revocation of a license or imposition of a fine by the Department, the provider shall have the right to appeal such

action by submitting a written request to the Bureau of Appeals within 30 days after receipt of the notification of the denial, revocation of a license, or imposition of a fine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2435 (November 2007).

**§8113. Terms of the License**

A. Licenses in Louisiana specify the service which the provider is licensed to provide, the maximum number of clients which the provider may serve at one time, the ages which may be served and the types of handicapping conditions which may be served. These terms must be continuously met by the provider; failure to do so is grounds for revocation of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2435 (November 2007).

**§8115. Services for Different Handicaps**

A. A provider will not be licensed to serve more than one program office type of handicapped client until the provider has been in operation and has consistently met applicable requirements for one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2435 (November 2007).

**§8117. Quarterly Staffing Report**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repealed by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:24356 (November 2007).

**§8119. Licensing Inspections**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repealed by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2435 (November 2007).

**§8121. New Construction, Renovations of Existing Facilities and Conversion of Any Residential or Commercial Building for Residential Care**

A. The building site shall be approved by the Division of Licensing and Certification prior to beginning of any construction. The site shall have good drainage and not subject to flooding. The site shall not be located in an area that would present a hazard to those being served. Plans and specifications must be prepared by a licensed architect or engineer. Three sets of complete plans and specifications must be submitted for approval to the Division of Licensing and Certification. The Division of Licensing and Certification will forward one set to the Office of Preventive and Public Health Services, and one set to the Office of State Fire Marshal.

B. The third set will be reviewed by the Division of Licensing and Certification and the Division of Engineering and Consulting Services. All three agencies must issue an approval of the plans and specifications prior to beginning construction. The Division of Licensing and Certification will issue the letter authorizing the start of construction after receiving approval from the Office of Preventive and Public Health Services, the Office of State Fire Marshal, and the Division of Engineering and Consulting Services.

C. The Division of Licensing and Certification, the Office of Preventive and Public Health Services, and the Office of State Fire Marshal, shall have the authority to inspect the project at any stage to insure that the approved plans and specifications are being followed. Final approval of the building must be obtained from these agencies after the building is completed and before it is occupied. A license shall be issued by the Division of Licensing and Certification only after these final approvals have been obtained.

D. It shall be the responsibility of the provider to obtain any approvals from local authorities (such as zoning, building, fire, etc.) that may be needed in the particular city or parish.

E. All providers must be in conformity with the ASNI standards for the handicapped.

AUTHORITY NOTE: Promulgated in accordance with R.S.  
36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health  
and Human Services, Office of the Secretary, Division of  
Licensing and Certification, LR 13:246 (April 1987),  
repromulgated by the Department of Health and Hospitals, Office  
of the Secretary, Bureau of Health Services Financing, LR  
33:2436 (November 2007).

**§8123. General Waiver**

A. The Department shall have the authority to waive any  
of those standards which are inapplicable to the type of service  
to be rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S.  
36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health  
and Human Services, Office of the Secretary, Division of  
Licensing and Certification, LR 13:246 (April 1987), amended by  
the Department of Health and Hospitals, Office of the Secretary,  
Bureau of Health Services Financing, LR 33:2436 (November 2007).

**§8125. Respite Care Services**

A. In addition to core requirements, respite care service  
providers are required to meet the requirements in the respite

care service module. Some core requirements may be excepted. Non-programmatic standards do not apply to in-home respite care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2436 (November 2007).

**§8127. General Requirements**

A. General Requirements

1. A provider shall allow designated representatives of DHHR in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact on clients and to interview any staff member or client (if the client agrees to said interview).

a. A provider shall make any information which the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to DHHR.

B. Governing Body

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

a. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership; and officers of the governing body; and terms of office of any officers.

b. When the governing body of a provider is comprised of more than one person, the governing body shall hold formal meetings at least twice a year.

c. When the governing body is composed of more than one person, a provider shall have written minutes of all meetings of the governing body, and by-laws specifying frequency of meetings and quorum requirements.

C. Responsibilities of a Governing Body

1. The governing body of a provider shall:

a. ensure the provider's compliance and conformity with the provider's charter;

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

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

- d. review and approve the provider's annual budget;
- e. ensure the review and approval of an annual external audit;
- f. designate a person to act as chief administrator and delegate sufficient authority to this person to manage the provider;
- g. formulate and annually review, in consultation with the chief administrator, written policies concerning the provider's philosophy, goals, current services, personnel practices job descriptions and fiscal management;
- h. annually evaluate the chief administrator's performance;
- i. have the authority to dismiss the chief administrator;
- j. meet with designated representatives of DHHR whenever required to do so;
- k. inform designated representatives of DHHR prior to initiating any substantial changes in the services provided by the provider.

D. Accessibility of Executive

- 1. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to staff or designated representatives of DHHR at all times.

E. Documentation of Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.

F. Administrative File

1. A provider shall have an administrative file including:

- a. documents identifying the governing body;
- b. list of members and officers of the governing body and their addresses and terms of membership;
- c. minutes of formal meetings and by-laws of the governing body, if applicable;
- d. documentation of the provider's authority to operate under state law;
- e. organizational chart of the provider;
- f. all leases, contracts and purchase-of-service agreements to which the provider is a party;
- g. insurance policies;
- h. annual budgets and audit reports;
- i. master list of all providers used by the provider.

G. Organizational Communication

1. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the client.

2. Any direct care employee of a provider shall have access to information from clients' case records that is necessary for effective performance of the employee's assigned tasks.

3. A provider shall establish procedures which facilitate participation and feedback from staff, clients, families, and when appropriate, the community at large. This will be used in areas such as policy-making, planning and program development.

#### H. Accounting

1. A provider shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records in keeping with generally accepted accounting principles.

2. A provider shall demonstrate fiscal accountability through regular recording of its finances and annual external audit.

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

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

#### I. Confidentiality and Security of Files

1. A provider shall have written procedures for the maintenance, security, and confidentiality of records. This shall include specifying who shall supervise the maintenance of records, and who shall have custody of records. This procedure shall also state to whom records can be released and the procedure for doing so. Records, including client as well as administrative, shall be the property of the provider and the provider, as custodian, shall secure records against loss, tampering, or unauthorized use.

2. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the agency, the clients or his/her family, directly or indirectly, to any unauthorized person.

3. When the client is of majority age and non-interdicted, a provider shall obtain the client's written, informed permission prior to releasing any information from which the client or his/her family might be identified.

4. When a client is a minor or is interdicted, a provider shall obtain written, informed consent from the legally responsible person prior to releasing any information from which the client or his/her family might be identified.

5. A provider shall, upon request, make available information in the case records to the client, the legally responsible person. If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be damaging to a client, that information (only) may be withheld from the client except under court order. The provider may charge a reasonable fee for providing the above records.

6. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge or the provider's services, or similar educational purposes, provided that names are deleted, providers which have on-grounds educational programs shall comply with federal and state laws governing educational records.

7. A provider shall not release a personnel file without the employee's written permission except in accordance with state law.

J. Records—Administrative and Client

1. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

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

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

4. A provider shall have a written record for each client which shall include:

a. the name, sex, race, birth date of the client, address of the client's current place of employment, school, or day provider, as appropriate;

b. other identification data including court status and/or legal status;

c. the names, addresses and phone numbers of other persons or providers involved with the client's plan/case. This shall include the client's physician;

d. a provider shall maintain limited health records including a description of any serious or life threatening medical condition of the client. This shall include a description of any current treatment or medication necessary

for the treatment of any serious or life threatening medical condition or known allergies.

5. A provider shall have a written record for each employee which includes:

a. the application for employment and/or resume;

b. references;

c. any required medical examination;

d. all required documentation of appropriate status which includes:

i. valid driver's license for operating provider vehicles or transporting clients;

ii. professional credentials/certification required to hold the position;

e. periodic, at least annual, performance evaluation;

f. employee's starting and termination dates along with salary paid;

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2436 (November 2007).

**§8128. Operational Requirements**

A. In order to be considered operational and retain licensed status the provider must have at least one employee on duty at the business location a minimum of eight hours per day Monday through Friday. There must be direct care staff employed and available to be assigned to provide care and services to persons receiving services at all times. Staff must be designated to receive calls after business hours (including weekends and holidays) on a telephone owned by the business 24 hours per day, seven days a week, within the region in which the provider is located.

B. Office Space. The RCSP's office shall be the physical site where the agency maintains staff to perform administrative functions, maintains personnel records, maintains client service records and holds itself out to the public as being a location of business for receipt of client referrals and provision of client services. The office shall have a separate entrance and

exit from any other entity, business or trade. If office space is shared with another health related entity, the RCSP must operate independently and have a clearly defined scope of services.

C. Office space must meet the following requirements:

1. be in commercial office space or if located in a residential area, it must be zoned for business and must be used solely for the operation of the business (may not be the personal residence of the business owner or any other individual);

2. comply with guidelines set forth by the Louisiana Office of the State Fire Marshall;

3. have a business telephone number that is accessible to persons receiving services 24 hours a day, seven days a week;

4. have a business fax number that is operational 24 hours a day, seven days a week;

5. have hours of operation posted in a location outside of the business that is easily visible to persons receiving services and the general public; and

6. have space for storage of client records in an area that is secure and does not breach confidentiality of personal health information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2437 (November 2007).

**§8129. Program and Services**

A. Program Description

1. A provider shall have a written program description describing:

- a. the overall philosophy of the provider;
- b. the long-term and short-term goals of the provider;
- c. the types of clients best served by the provider;
- d. the services provided directly by the provider;
- e. a schedule for any fees for services which will be charged the client.

2. A provider shall make every effort to ensure that service and program planning for each client is a comprehensive process involving appropriate provider staff, representatives of

other agencies, the client, and where significantly involved in the client's care on an ongoing basis.

3. There shall be written eligibility criteria for each of the services/programs provided.

B. Transportation

1. A provider shall ensure that any vehicle used by provider staff to transport clients is properly maintained, inspected and licensed according to state laws and carries a sufficient amount of current liability insurance.

2. Any staff member or the provider using a vehicle to transport clients shall be properly licensed to operate that vehicle according to state laws.

C. External Professional Service

1. A provider shall, when necessary, give assistance to clients in obtaining any required professional services not available from employees of the provider facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2438 (November 2007).

**§8130. Required Staffing**

A. The provider shall be staffed at all times in sufficient numbers to properly safeguard the health, safety and welfare of the persons receiving services as required by these regulations. Sufficient support staff shall be employed to ensure provision of respite care services as required by the comprehensive plan of care. There shall be back-up staff available to ensure that services to the client are uninterrupted in the event that the primary direct care worker for the client is unable to report to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2438 (November 2007).

**§8131. Personnel Policies**

A. A RCSP shall have written personnel policies and procedures that include, but are not limited to:

1. a plan for recruitment, screening, orientation, in-service training, staff development, supervision and performance evaluation;
2. written job descriptions for each staff position, including volunteers;

3. a health assessment to include at a minimum, evidence that the employee is free of active tuberculosis and that staff are retested on a time schedule as mandated by the Office of Public Health;

4. criminal history background checks for all unlicensed personnel which includes a security check of the National Sex Offender Public Registry;

5. an employee grievance procedure;

6. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether the abuse or mistreatment is committed by another staff member, a family member or any other person; and

7. prevention of discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2438 (November 2007).

**§8132. Training**

A. All non-licensed respite care services direct care staff must meet minimum mandatory qualifications and

requirements for direct service workers as required by R.S. 40:2179-2179.1 or a subsequently amended statute, and be registered on the Louisiana Direct Service Worker Registry.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2438 (November 2007).

### **§8133. Client Rights**

#### A. Basic Rights

1. A provider shall ensure that clients are provided all rights available to them be they interdicted or not.

#### B. Self-Advocacy

1. A provider shall make every effort to ensure that a client understands his/her rights in matters such as access to services, appeal, grievances, and protection from abuse.

C. Advocacy

1. A provider shall ensure that an advocate is provided the client whenever the client rights or desires may be in conflict or jeopardy with the provider or placement agency.

D. Grievance Procedures for Clients

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2438 (November 2007).

**§8135. Individual Service Plan**

A. A service plan which specifies the client's particular physical, emotional and educational needs and the way these needs will be met while in respite care shall be documented in the client's case record within 72 hours. A service plan is not necessary for clients who are in respite care for less than 72 hours at one time.

1. The client's family or the client's case manager, together with the provider, shall assure that the client has a service plan.

a. The service plan shall include the objectives to be attained through respite care and the anticipated length of stay.

b. The service plan shall include specific instructions for treatment and shall be shared with all staff involved in the service plan.

B. When appropriate, procedures shall be established which give clients' parents or legal guardians the opportunity for participation in the formulation of the service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2438 (November 2007).

**§8137. Daily Aspects of Care**

A. The daily schedule shall be developed in relation to the needs of the clients.

B. Clients shall be given training in good habits of personal care, hygiene and grooming. The family shall supply the client with personal care, hygiene, and grooming items and supplies.

C. The agency shall make available to each client an adequate number of supervised recreational activities.

D. The provider shall have adequate administrative support, professional and direct care staff to meet the needs of the clients in care at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8139. Clothing**

A. The facility shall ensure that the family supplies the client with his or her own clothing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8141. Health Aspects of Care**

A. Responsibility for the health supervision of the clients shall be placed with the client's personal physician. The agency shall have written agreements for obtaining diagnosis and treatment of medical and dental problems for the clients who do not have a personal physician. This agreement can be with a local hospital, clinic or physician.

B. Arrangements for medical isolation shall be available. The family may be informed to remove the client.

C. Medication shall be prescribed only by a licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office

of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8143. Food and Nutrition**

A. Planning, preparation and serving of foods shall be in accordance with the nutritional, social and emotional and medical needs of the clients in care. The diet shall include a variety of food attractively served. Clients shall be encouraged but not forced to eat all food served.

B. Food provided shall be of adequate quality and in sufficient quantity to provide the nutrients for proper growth and development.

1. Clients shall be provided a minimum of three meals daily and snacks.

2. All milk and milk products used for drinking shall be Grade A and pasteurized.

3. There shall be no more than 14 hours between the last meal or snack one day and the first meal the following day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office

of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8145. Money**

A. The provider shall request from the family that all clients over five years of age have money for personal use.

B. Money received by a client shall be his own personal property and shall be accounted separately from the provider's funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8147. Discharge**

A. The agency shall have written documentation describing discharge policies and procedures.

B. Client's use of respite care shall not exceed 720 hours per six months or 1,440 hours per calendar year. Any exception to these hours shall be approved in writing by the program office.

C. No client shall be precipitously or arbitrarily discharged from care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8149. Privacy**

A. The staff of the provider shall function in a manner that allows appropriate privacy for each client. The space and furnishings shall be designed and planned to enable the staff to respect the client's right to privacy and at the same time provide adequate supervision according to the ages and developmental needs of the clients.

B. The provider shall not use reports or pictures or release or cause to be released research data from which clients can be identified without written consent from the client and the parents or legal guardians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8151. Contact with Family and Collaterals**

A. Clients in care shall be allowed to send and receive uncensored mail and conduct private telephone conversations with family members.

B. If it has been determined that the best interests of the client necessitate any restrictions on communications or visits, these restrictions shall be documented in the service plan.

C. If limits on communication or visits are indicated for practical reasons, such as expense of travel or telephone calls, such limitations shall be determined with the participation of the client and family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987),

repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8153. Participation in Program Development**

A. Client's and family's opinions and recommendations shall be considered in the development and continued evaluation of the program and activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8155. Disciplinary Safeguards**

A. Only specifically authorized staff members shall be allowed to handle discipline.

B. Clients shall not be subjected to corporal punishment.

C. Clients shall not be subjected to cruel, severe, unusual, degrading or unnecessary punishment.

D. Clients shall not be subjected to verbal remarks which belittle or ridicule them, their families or others.

E. Clients shall not be denied food, mail or visits with their families as punishments.

F. Any discipline or control shall be individualized to fit the needs of each client.

G. Seclusion, defined as the placement of a client alone in a locked room, shall not be employed.

H. Physical holding shall only be employed to protect the individual from physical injury to himself or others. Physical restraints shall not be employed as punishment.

I. Mechanical restraints shall not be used as punishment or disciplinary purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8157. Furnishings and Equipment for Center Based Respite Care**

A. The furnishings and equipment shall be adequate, sufficient, and substantial for the needs of the age groups in care.

1. Sleeping Rooms

a. All bedrooms shall be on or above street grade level and be outside rooms. Normally, bedrooms shall accommodate no more than four residents. Any deviation from this size shall be justified on the basis of meeting the program needs of the specific individuals being served. Bedrooms must provide at least 60 square feet per person in multiple sleeping rooms, and not less than 80 square feet in single rooms.

b. Each resident shall be provided a separate bed of proper size and height, a clean comfortable mattress and bedding appropriate for weather and climate.

c. When possible, there should be individual sleeping rooms for adults and adolescents and for clients whose behavior would be upsetting to the group.

d. Appropriate furniture shall be provided, such as a chest of drawers, a table or desk, an individual closet with clothes racks, shelves accessible to the residents.

e. Individual storage space reserved for the client's exclusive use shall be provided for personal

possessions such as clothing, and other items or that they are in easy access to the resident during his/her stay.

2. Bath and Toilet Facilities

a. There shall be a separate toilet and bath facility for males and females beyond pre-school age, unless a variance is granted.

b. Toilets should be convenient to sleeping rooms and play rooms.

c. Toilets, bathtubs, and showers shall provide for individual privacy unless specifically contraindicated by individual, as stated in the service plan.

3. Dining Room and Kitchen

a. There shall be a designated space for dining.

b. Dining room tables and chairs shall be adjusted in height to suit to the ages of the clients.

4. Heat and Ventilation

a. Temperature shall be maintained within a reasonable comfort range (65 to 85 degrees).

b. Each habitable room shall have access to direct outside ventilation by means of windows, louvers, air conditioner, or mechanical ventilation horizontally and vertically.

AUTHORITY NOTE: Promulgated in accordance with R.S.  
36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health  
and Human Services, Office of the Secretary, Division of  
Licensing and Certification, LR 13:246 (April 1987),  
repromulgated by the Department of Health and Hospitals, Office  
of the Secretary, Bureau of Health Services Financing, LR  
33:2439 (November 2007).

**§8159. Play Space and Equipment**

A. Indoor and outdoor play space: The indoor recreation  
space shall be a minimum of 35 square feet per client separate  
from and excluding bedrooms, halls, kitchen and any rooms not  
available to clients. The outdoor play space shall be a minimum  
of 75 square feet per client. This area shall not include  
parking and must be an area which is reserved primarily for  
recreational purposes.

B. Recreational Equipment: There shall be recreational  
equipment sufficient to provide all clients in care  
opportunities for easy access to such equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S.  
36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health  
and Human Services, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987),  
repromulgated by the Department of Health and Hospitals, Office  
of the Secretary, Bureau of Health Services Financing, LR  
33:2439 (November 2007).

**§8161. Health and Safety**

A. The facility shall comply with all applicable building codes, fire and safety laws, ordinances and regulations.

B. No client shall have access to machinery such as power driven lawn mowers, mangles, commercial type power driven washing machines, etc., unless these are provided with approved safety devices.

C. Secure railings shall be provided for flights of more than four steps and for all galleries more than four feet from the ground.

D. Where clients under age two are in care, gates shall be provided at the head and foot of each flight of stairs accessible to these clients.

E. An outdoor swimming pool shall be enclosed by a six foot high fence. All entrances and exits to pools shall be closed and locked when not in use. Machinery rooms shall be locked to prevent clients from entering.

F. An individual, 18 years of age or older, shall be on duty when clients are swimming in ponds, lakes, or pools where a

lifeguard is not on duty. The individual is to be certified in water safety by the Red Cross.

G. There shall be a written plan and procedures for water safety.

H. Storage closets or chests containing medicine or poisons shall be securely locked.

I. Garden tools, knives and other dangerous instruments shall be inaccessible to clients without supervision.

J. Electrical devices shall have appropriate safety controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2439 (November 2007).

**§8165. Maintenance**

A. Buildings and grounds shall be kept clean and in good repair.

B. Outdoor areas shall be well-maintained.

C. Equipment and furniture shall be safely and sturdily constructed and free of hazards to clients and staff.

D. The arrangement of furniture in living areas shall not block exit ways.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2440 (November 2007).

**§8167. In or Out-of-Home**

A. Respite care services may be provided in or out of the client's home by the respite care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.1-7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:2440 (November 2007).