

Chapter 97. Nursing Homes

Subchapter A. General Provisions

§9701. Definitions

Abuse—the willful infliction of physical or mental injury or the causing of the deterioration of a resident by means including, but not limited to, sexual abuse, exploitation, or extortion of funds or other things of value to such an extent that his health, moral, or emotional well-being is endangered.

Administrator—any individual who is, or may be charged with, the general administration of a nursing home, and who has been licensed and registered by the Board of Examiners of Nursing Home Administrators in accordance with the provisions of R.S. 37:2501.

Advanced-Practice Registered Nurse (APRN)—a licensed registered nurse who is certified by a nationally-recognized certifying body as having an advanced nursing specialty, and who meets the criteria for an advanced-practice registered nurse as established by the Louisiana State Board of Nursing. An advanced-practice registered nurse shall include certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner.

Alzheimer's Special Care Unit—any nursing home as defined in R.S. 40:2009.2, that segregates or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or related disorder so as to prevent or limit access by a resident to areas outside the designated or separated area, or that advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer/dementia care services.

Ancillary Service—a service such as, but not limited to, podiatry, dental, audiology, vision, physical therapy, speech pathology, occupational therapy, psychological, and social services.

Applicant—the legal entity that applies for the license to open, conduct, manage, or maintain a nursing home.

Biological—a preparation used in the treatment or prevention of disease that is derived from living organisms or their by-product.

Change of Ownership—any change in the legal entity responsible for the operation of the facility. Management agreements are generally not changes of ownership if the former owner continues to retain policy responsibility and approve or concur in decisions involving the nursing home's operation. However, if these ultimate legal responsibilities, authorities, and liabilities are surrendered and transferred from the former owner to the new manager, then a change of ownership has occurred.

Charge Nurse—an individual who is licensed by the state of Louisiana to practice as an RN or LPN and designated as a charge nurse by the nursing home.

Chemical Restraint—a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms.

Controlled Dangerous Substance—a drug, substance, or immediate precursor in Schedule I through V of R.S. 40:964.

Dietary Manager—a person who:

1. is a licensed dietitian; or
2. is a graduate of a dietetic technician program; or
3. has successfully completed a course of study, by correspondence or classroom, which meets the eligibility requirements for certification by the Dietary Manager's Association; or
4. has successfully completed a training course at a state approved school (vocational or university) which includes coursework in foods, food service supervision, and diet therapy. Documentation of an eight-hour course of formalized instruction in diet therapy, conducted by the employing facility's qualified dietitian, is permissible if the course meets only the foods, and food service supervision requirements; or
5. is currently enrolled in an acceptable course of not more than 12 months which will qualify an individual upon completion.

Director of Nursing (DON)—a registered nurse, licensed by the state of Louisiana, who directs and coordinates nursing services in a nursing home.

Drug Administration—an act in which a single dose of a prescribed drug or biological is given to a resident by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container); verifying it with the physician's orders; giving the individual dose to the proper resident; monitoring the ingestion of the dose; and promptly recording the time and dose given.

Drug Dispensing—an act which entails the interpretation of an order for a drug or biological and, pursuant to the order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological for a resident or for a service unit of the facility by a licensed pharmacist, physician, or dentist.

Fees—remittance required by rules published by the department in *Louisiana Register*, June 20, 1989 (Volume 15, Number 6).

Licensed Bed—a bed set up, or capable of being set up, within 24 hours in a nursing home for the use of one resident.

Licensed Dietitian—a dietitian who is licensed to practice by the Louisiana Board of Examiners in Dietetics and Nutrition.

Licensed Practical Nurse (LPN)—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana.

Major Alteration—any repair or replacement of building materials and equipment which does not meet the definition of minor alteration.

Medical Director—a physician licensed in Louisiana who directs and coordinates medical care in a nursing home.

Minor Alteration—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

Neglect—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

Nurses' Call System—a system that audibly registers calls electronically from its place of origin (which means the resident's bed, toilet, or bathing facility) to the place of receivership (which means the nurses' station).

Nursing Home—any private home, institution, building, residence, or other place, serving two or more persons who are not related by blood or marriage to the operator, whether operated for profit or not, and including those places operated by a political subdivision of the state of Louisiana which undertakes, through its ownership or management, to provide maintenance, personal care, or nursing for persons who, by reason of illness or physical infirmity or age, are unable to properly care for themselves. The term does not include the following:

1. a home, institution, or other place operated by the federal government or agency thereof, or by the state of Louisiana;
2. a hospital, sanitarium, or other institution whose principal activity or business is the care and treatment of persons suffering from tuberculosis or from mental diseases;
3. a hospital, sanitarium, or other medical institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefore;
4. any municipal, parish, or private child welfare agency, maternity hospital, or lying-in home required by law to be licensed by some department or agency;
5. any sanitarium or institution conducted by and for Christian Scientists who rely on the practice of Christian Science for treatment and healing;
6. any nonprofit congregate housing program which promotes independent living by providing assistance with daily living activities such as cooking, eating, dressing, getting out of bed, and the like to persons living in a shared group environment who do not require the medical

supervision and nursing assistance provided by nursing homes. No congregate housing program, except those licensed or operated by the state of Louisiana, shall:

- a. use the term "nursing home" or any other term implying that it is a licensed health care facility; or
- b. administer medications or otherwise provide any other nursing or medical service.

Physical Restraint—any physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

Physician—an individual currently licensed by the Louisiana State Board of Medical Examiners to practice medicine and/or surgery in Louisiana.

Physician Assistant—a person who is a graduate of a program accredited by the Council on Medical Education of the American Medical Association or its successors, or who has successfully passed the national certificate examination administered by the National Commission on the Certification of Physicians' Assistants, or its predecessors, and who is approved and licensed by the Louisiana State Board of Medical Examiners to perform protocol services under the supervision of a physician or group of physicians approved by the board to supervise such assistant.

Registered Nurse (RN)—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

Registered Pharmacist—an individual currently licensed by the Louisiana State Board of Pharmacy to practice pharmacy in Louisiana.

Resident—an individual admitted to the nursing home by and upon the recommendation of a physician, and who is to receive the medical and nursing care ordered by the physician.

Resident Activities Director—an individual responsible for directing or providing the activity services of a nursing home.

Restorative Nursing Care—activities designed to resolve, diminish, or prevent the needs that are inferred from the resident's problem; including the planning, implementation and evaluation of said activities in accordance with the Louisiana State Board of Nursing Legal Standards of Nursing Practice.

Social Service Designee—an individual responsible for arranging or directly providing medically-related social services.

Sponsor—an adult relative, friend, or guardian of a resident who has an interest or responsibility in the resident's welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4 and R.S. 40:2200.1-2200.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:44 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1542 (August 2009).

§9703. Licensing Process

A. No application for a nursing home license, renewal of a license, or change in the existing license will be considered unless such application is in writing, on a form supplied by the department, containing the name(s) and address(es) of the owner(s), and signed by either the applicant or his representative.

1. It shall be accompanied by the fees and documentary evidence required by these licensing requirements.

2. When the secretary finds that an application is in proper order, he/she will cause whatever investigations are necessary to be made.

3. He/She may also cause routine, periodic inspections to be made of licensed nursing homes and such special inspections and investigations as he/she may consider necessary.

B. The applicant or applicant's designee shall disclose to the department the name and address of all individuals with 5 percent or more ownership interest, and, in the instance where the nursing home is a corporation or partnership, the name and address of each officer or director, and board members.

C. If the nursing home is operated by a management company, or leased in whole or in part by another organization, the applicant or applicant's designee shall disclose to the department the name of the management firm and employer identification number, or the name of the leasing organization.

D. The nursing home shall complete the licensing application form and return it to the department at least 15 days prior to the initial licensing survey or expiration date of the current license, accompanied by a nonrefundable, per annum licensing fee as provided by law. All fees shall be submitted only by certified or company check, or U.S. postal money order, made payable to DHH. All state-owned facilities are exempt from fees. The nursing home shall reapply for licensing on an annual basis.

E. The nursing home shall only accept that number of residents for which it is licensed, unless prior written approval has been secured from the department.

F. If a nursing home is in substantial compliance with the licensing requirements for nursing homes and the nursing home licensing law, a license shall be issued by the department for a period of not more than 12 months, determined by the department. If a nursing home is not in substantial compliance with the licensing requirements for nursing homes and the nursing home licensing law, the department may issue a provisional license for a period of up

to six months if there is no immediate and serious threat to the health and safety of residents.

G. For an increase in bed capacity as a result of new construction, renovations or alterations, a fee as provided by law shall be remitted to the department. Approval shall be granted after an on-site survey or through the submission of a signed and dated attestation to the compliance with these licensing requirements.

H. For a replacement license, when changes such as name change, address change, or bed reduction are requested, in writing, by the nursing home, a fee as provided by law shall be remitted.

I. For a change in licensee or premises, the buyer(s) shall submit to the department a completed application for nursing home licensing with a licensing fee, as provided by law. Nursing home licensing is not transferable from one entity or owner(s) to another.

J. A processing fee, as provided by law, shall be submitted by the nursing home for issuing a duplicate facility license with no changes.

K. The license shall be conspicuously posted in the nursing home.

L. Licensing inspection visits should be a source of help and guidance to the management. During these inspection visits the representatives of the department, in addition to checking compliance by the home with fire, sanitation, diet and health regulations, will review with the management the overall plan for the care of residents and the personnel needs of the home and will also offer recommendations designed to improve the service of the home, unless contraindicated by a more stringent rule, regulation, or policy.

M. Exceptions to these Licensing Requirements

1. Where any requirement on an existing nursing home would impose a financial hardship but would not adversely affect the health and safety of any resident, the existing nursing home may submit a request for exception (waiver) to the department.

2. Where a more stringent requirement on an existing nursing home would impose an unreasonable hardship, the existing nursing home may submit a written request for exception, along with supporting documentation, to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:46 (January 1998).

§9704. Alzheimer's Special Care Disclosure

A. Any provider offering a special program for persons with Alzheimer's disease or a related disorder must disclose the form of care or treatment that distinguishes it as being especially applicable to or suitable for such persons. For the purpose of this section, a related disorder means progressive, incurable dementia.

B. Prior to entering into any agreement to provide care, a provider must make the disclosure to:

1. any person seeking services within an Alzheimer's special care program; or

2. any person seeking such services on behalf of a person with Alzheimer's disease or a related disorder within an Alzheimer's special care program. A provider must make the disclosure upon characterizing programs or services as specially suited for persons with Alzheimer's disease or a related disorder. Additionally, a provider must give copies of current disclosure forms to all designees, representatives or sponsors of persons receiving treatment in an Alzheimer's special care program.

C. A provider must furnish the disclosure to the department when applying for a license, renewing an existing license, or changing an existing license. Additional disclosure may be made to the state ombudsman. During the licensure or renewal process, the department will examine all disclosures to verify the accuracy of the information. Failure to provide accurate or timely information constitutes non-compliance with this section and may subject the provider to standard administrative penalties or corrective actions. Distributing an inaccurate or misleading disclosure form constitutes deceptive advertising and may subject a provider to prosecution under LA R.S. 51:1401 et seq. In such instances, the department will refer the matter to the Attorney General's Division of Consumer Protection for investigation and possible prosecution.

D. Within seven working days of a significant change in the information submitted to the department, a provider must furnish an amended disclosure form reflecting the change to the following parties:

1. the department;
2. any clients with Alzheimer's disease or a related disorder currently residing in the nursing home;
3. any designee, representative or sponsor of any such client;
4. any person seeking services in an Alzheimer's special care program; and
5. any person seeking services on behalf of a person with Alzheimer's disease or a related disorder in an Alzheimer's special care program.

E. A provider must use the "Alzheimer's Special Care Disclosure Form" developed by the department. The disclosure form shall contain the following information:

1. a written statement of the overall philosophy and mission of the Alzheimer's special care program which reflects the needs of residents afflicted with dementia;
2. a description of the criteria and process for admission to, transfer, or discharge from the program;
3. a description of the process used to perform an assessment as well as to develop and implement the plan of

care, including the responsiveness of the plan of care to changes in condition;

4. a description of staff training and continuing education practices;

5. a description of the physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

6. a description of the frequency and types of resident activities;

7. a statement of philosophy on the family's involvement in care and a statement on the availability of family support programs;

8. a list of the fees for care and any additional program fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.121-1300.125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:312 (March 2001).

§9705. License Denial, Revocation; or Nonrenewal of License

The department also may deny, suspend, or revoke a license where there has been substantial noncompliance with these requirements in accordance with the nursing home licensing law. If a license is denied, suspended, or revoked, an appeal may be requested as outlined in the nursing home licensing law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:46 (January 1998).

§9707. Approval of Plans

A. All new construction, other than minor alterations, shall be done in accordance with the specific requirements of the Office of the State Fire Marshal and the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals, covering new construction in nursing homes, including submission of preliminary plans and the submission of final work drawings and specifications to each of these agencies.

B. No new nursing home shall hereafter be constructed, nor shall major alterations be made to existing nursing homes, without prior written approval, and unless in accordance with plans and specifications approved in advance by the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals and the Office of the State Fire Marshal. The review and approval of plans and specifications shall be made in accordance with these licensing requirements for nursing homes and the *State of Louisiana Sanitary Code*.

C. Before any new nursing home is licensed, or before any alteration or expansion of a licensed nursing home can be approved, the applicant must furnish one complete set of plans and specifications to the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals and one complete set of plans and specifications to the Office of the State Fire Marshal, together with fees and other information as may be required.

1. Plans and specifications for new construction, other than minor alterations, shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer.

2. No residential conversions will be considered for a nursing home license.

D. In the event that submitted materials do not satisfactorily comply with the aforementioned publications, the Department of Health and Hospitals shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

E. Notice of satisfactory review from the Department of Health and Hospitals and the Office of the State Fire Marshal constitutes compliance with this requirement, if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes, or rules of any responsible agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:46 (January 1998).

§9709. Fire Protection

All nursing homes required to be licensed by the law shall comply with the rules, established fire protection standards, and enforcement policies as promulgated by the Office of the State Fire Marshal.

1. It shall be the primary responsibility of the Office of the State Fire Marshal to determine if applicants are complying with those requirements.

2. No initial license shall be issued without the applicant furnishing a certificate from the Office of the State Fire Marshal that such applicant is complying with their provisions.

3. A provisional license may be issued to the applicant if the Office of the State Fire Marshal issues the applicant a conditional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:47 (January 1998).

§9711. Sanitation and Patient Safety

All nursing facilities required to be licensed by the law shall comply with the rules, sanitary code and enforcement policies as promulgated by the Office of Public Health.

1. It shall be the primary responsibility of the Office of Public Health to determine if applicants are complying with those requirements.

2. No initial license shall be issued without the applicant furnishing a certificate from the Office of Public Health that such applicant is complying with their provisions.

3. A provisional license may be issued to the applicant if the Office of Public Health issues the applicant a conditional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:47 (January 1998).

Subchapter B. Organization and General Services

§9713. Delivery of Services

A nursing home shall be administered in a manner that promotes the highest level of functioning and well-being of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:47 (January 1998).

§9715. Governing Body

A. The nursing home shall have a governing body that is legally responsible for establishing and implementing policies regarding the management and operation of the nursing home. The governing body 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.

B. The governing body shall be responsible for the operation of the nursing home.

C. The governing body shall appoint, in writing, a licensed administrator responsible for the management of the nursing home.

D. The governing body shall notify the department, in writing by certified mail, when a change occurs in the

administrator position within 30 calendar days after the change occurs. The notice shall include the identity of the individual and the specific date the change occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:47 (January 1998).

§9717. Administration

A. Facility Administrator. All facilities are required to have full-time administrators. Full-time administrators are persons who are licensed, currently registered and engaged in the day-to-day management of the facility. The administrator's duties shall conform to the following standards.

1. Administrative/management activities shall be the major function of the required duties.

2. An adequate and reasonable amount of time shall be spent on the premises of the facility. The administrative activities must be the major function of the person performing the duties.

3. A major portion of the time, described above, shall be spent during the normal work week of the facility's personnel.

B. A full-time employee functioning in an administrative capacity shall be authorized in writing to act in the administrator's behalf when he/she is absent or functioning as a full-time administrator for two facilities.

C. Administrator Responsibilities and Restrictions

1. No individual may function as a full-time administrator for more than two nursing facilities. When a full-time administrator is engaged in the management of two nursing facilities, the facilities' sizes and proximity to one another have considerable bearing on the administrator's ability to adequately manage the affairs of both nursing facilities.

a. The response time to either facility shall be no longer than one hour.

b. If an administrator serves two facilities, he/she must spend 20 hours per week at each facility.

2. The administrator or his designee is responsible, in writing, for the execution of all policies and procedures.

3. If a change occurs in the individual who is the administrator of a nursing facility, notice shall be provided to the Bureau of Health Services Financing, Health Standards Section by the facility administrator or, in the absence of an administrator, by the governing body of the facility at the time the change occurs.

a. Notice shall include the identity of all individuals involved and the specific changes which have occurred.

b. Failure to provide written notice by certified mail within 30 calendar days from the date a change occurs will result in a Class C civil money penalty.

c. The Department shall allow nursing facilities 30 days from the date of the change in the position to fill the resulting vacancy in the administrator position. There shall be no waiver provisions for this position.

d. The governing body of the facility shall appoint a facility designee charged with the general administration of the facility in the absence of a licensed administrator.

e. Failure to fill a vacancy or to notify the Department in writing by the thirty-first day of vacancy that the administrator position has been filled shall result in a Class C civil money penalty.

D. Assistant Administrator. A nursing facility with a licensed bed capacity of 161 or more beds must employ an assistant administrator. An assistant administrator shall be a full-time employee and function in an administrative capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:47 (January 1998), amended LR 32:1067 (June 2006).

§9719. Personnel

A. There shall be sufficient qualified personnel to properly operate each department of the nursing home to assure the health, safety, proper care, and treatment of the residents.

1. Time schedules shall be maintained indicating the numbers and classification of all personnel, including relief personnel, who work on each tour of duty. The time schedules shall reflect all changes so as to indicate who actually worked.

2. Should there be a need to commingle the nursing service staff with other personnel:

a. nurse aides shall not work in food preparation after having provided personal care to residents;

b. laundry and housekeeping personnel shall not provide nursing care functions to residents;

c. nursing service personnel may perform housekeeping duties only after normal duty hours of the housekeeping staff or when a situation arises that may cause an unsafe situation.

B. Personnel records shall be current and available for each employee and shall contain sufficient information to assure that they are assigned duties consistent with his or her job description and level of competence, education, preparation, and experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:48 (January 1998).

§9721. Criminal History Provisions; Screening

A. Nursing homes shall have criminal history checks performed on nonlicensed personnel to include CNAs, housekeeping staff, activity workers, and social service personnel in accordance with R.S. 40:1300.5 et seq.

B. All personnel requiring licensure to provide care shall be licensed to practice in the state of Louisiana. Credentials of all licensed full-time, part-time, and consultant personnel shall be verified on an annual basis, in writing, by a designated staff member.

C. TB Testing. All personnel, including volunteer workers, involved in direct resident care, shall adhere to Section 3, Chapter II of the *State of Louisiana Sanitary Code*, Sections 2:022-2:025-1 and 2:026.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:48 (January 1998).

§9723. Policies and Procedures

A. There shall be written policies and procedures:

1. available to staff, residents, and/or sponsors governing all areas of care and services provided by the nursing home;

2. ensuring that each resident receives the necessary care and services to promote the highest level of functioning and well-being of each resident;

3. developed with the advice of a group of professional personnel consisting of at least a licensed physician, the administrator, and the director of nursing service;

4. approved by the governing body;

5. revised, as necessary, but reviewed by the professional group at least annually;

6. available to admitting physicians; and

7. reflecting awareness of, and provision for, meeting the total medical and psychosocial needs of residents, including admission, transfer, and discharge planning; and the range of services available to residents, including frequency of physician visits by each category of residents admitted.

B. The administrator, or his designee, is responsible, in writing, for the execution of such policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:48 (January 1998).

§9725. Assessments and Care Plans

A. An initial assessment of the resident's needs/problems shall be performed and documented in each resident's

clinical record by a representative of the appropriate discipline.

B. The assessment shall be used to develop the resident's plan of care.

C. The assessment and care plan shall be completed within 21 days of admission.

D. The care plan shall be revised, as necessary, and reviewed, at least annually, by the personnel involved in the care of the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:48 (January 1998).

§9727. Staff Orientation, Training and Education

A. New employees shall have an orientation program of sufficient scope and duration to inform the individual about his/her responsibilities and how to fulfill them.

B. The orientation program shall include at least a review of policies and procedures, job description, and performance expectations prior to the employee performing his/her responsibilities.

C. A staff development program shall be conducted by competent staff and/or consultants and planned based upon employee performance appraisals, resident population served by the nursing home, and as determined by facility staff. All employees shall participate in in-service education programs which are planned and conducted for the development and improvement of their skills.

D. The in-service training shall include at least problems and needs common to the age of those being served; prevention and control of infections; fire prevention and safety; emergency preparedness; accident prevention; confidentiality of resident information; and preservation of resident dignity and respect, including protection of privacy and personal and property rights.

E. The facility's in-service training shall be sufficient to ensure the continuing competence of the staff but must be provided no less than 12 hours per year.

F. Records of in-service training shall be maintained indicating the content, time, names of employees in attendance, and the name of the presenter.

G. Dementia Training

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices.

2. Nursing facility staff who provide care on a regular basis to residents in Alzheimer's special care units shall meet the following training requirements:

a. Staff who provide nursing and nursing assistant care to residents shall be required to obtain at least eight hours of dementia-specific training within 90 days of

employment and five hours of dementia-specific training annually. The training shall include the following topics:

- i. an overview of Alzheimer's disease and related dementias;
- ii. communicating with persons with dementia;
- iii. behavior management;
- iv. promoting independence in activities of daily living; and
- v. understanding and dealing with family issues.

NOTE: For purposes of this Section, "regular basis" shall mean more than 10 full shifts in any one calendar year.

b. Staff who have regular communicative contact with residents, but who do not provide nursing and nursing assistant care, shall be required to obtain at least four hours of dementia-specific training within 90 days of employment and one hour of dementia training annually. This training shall include the following topics:

- i. an overview of dementias; and
- ii. communicating with persons with dementia.

c. Staff who have only incidental contact with residents shall receive general written information provided by the facility on interacting with residents with dementia.

3. Nursing facility staff who do not provide care to residents in an Alzheimer's special care unit shall meet the following training requirements.

a. Staff who provide nursing assistant care shall be required to obtain four hours of dementia-specific training within 90 days of employment and two hours of dementia training annually.

b. Staff who are not licensed and who have regular communicative contact with residents but do not provide nursing assistant care shall be required to obtain four hours of dementia-specific training within 90 days of employment and one hour of dementia training annually. The training shall include the following topics:

- i. an overview of dementias; and
- ii. communicating with persons with dementia.

c. Staff who have only incidental contact with residents shall receive general written information provided by the facility on interacting with residents with dementia.

4. Staff delivering approved training will be considered as having received that portion of the training that they have delivered.

5. Nothing herein shall be construed to increase the number of training hours already required by regulations promulgated by the department.

6. Any dementia-specific training received in a nursing assistant program approved by the Department of Health and Hospitals or the Department of Social Services

may be used to fulfill the training hours required pursuant to this Section.

7. Nursing facility providers may offer an approved complete training curriculum themselves or may contract with another organization, entity, or individual to provide the training.

8. The dementia-specific training curriculum must be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual must submit the following information to the department or its designee:

- a. a copy of the curriculum;
- b. qualifications of the person(s) or entity that developed the training; and
- c. information on how the training will be delivered (i.e., web-based, classroom, etc.)

9. A provider, organization, entity, or individual must submit any significant content changes to an approved training curriculum to the department, or its designee, for review and approval.

- a. A significant change occurs when there is:
 - i. any change of 50 percent or more to the training content;
 - ii. a change to the content regarding three or more required topic areas; or
 - iii. a change in the delivery method of the training (e.g., from classroom-based to web-based).

b. Continuing education undertaken by the provider does not require the department's approval.

10. If a provider, organization, entity or individual with an approved curriculum ceases to provide training, the department must be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity or individual must reapply to the department for approval to resume the program.

11. An approved training curriculum remains effective for seven years from the date the approval is obtained from the department or its designee.

12. Disqualification of Training Programs and Sanctions.

a. The department may disqualify a training curriculum offered by a provider, organization, entity or individual that has demonstrated substantial noncompliance with training requirements, including, but not limited to the:

- i. qualifications of the person(s) or entity that developed the training;
- ii. the minimum qualifications of the person(s) or entity delivering the training; or
- iii. training curriculum requirements.

13. Compliance with Training Requirements.

a. The review of compliance with training requirements will include, at a minimum, a review of:

i. the documented use of an approved training curriculum; and

ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

14. Training Exclusions and Timelines

a. Persons who are employed on a contractual basis are excluded from the dementia training requirements.

b. Nursing facilities must comply with these dementia training requirements by January 1, 2011.

i. Existing staff must be trained in accordance with these provisions by January 1, 2011.

ii. New staff must be trained in accordance with these provisions within 90 days from the date of hire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4 and R.S. 40:2200.1-2200.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:48 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1542 (August 2009), LR 36:1013 (May 2010).

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan designed to manage the consequences of 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 approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the nursing facility shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the nursing facility or to another location;

2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. Effective immediately, upon declaration by the secretary and notification to the Louisiana Nursing Home Association and Gulf States Association of Homes and Services for the Aging, all nursing facilities licensed in Louisiana shall file an electronic report with the HSS

emergency preparedness webpage/operating system, or a successor operation system, during a declared disaster or other public health emergency.

a. The electronic report will enable the department to monitor the status of nursing facilities during and immediately following an emergency event.

b. The electronic report shall be filed twice daily at 7:30 a.m. and 2:30 p.m. throughout the duration of the disaster or emergency event.

c. The electronic report shall include, but is not limited to the following:

i. status of operation (open, limited or closed);

ii. availability of beds;

iii. resources that have been requested by the nursing facility from the local or state Office of Emergency Preparedness;

iv. generator status;

v. evacuation status;

vi. shelter in place status; and

vii. other information requested by the department.

NOTE: The electronic report is not to be used to request resources or to report emergency events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.2 – 2009.11.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), amended LR 34:1917 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing LR 35:248 (February 2009), amended LR 36:325 (February 2010).

§9731. Complaint Process

A. Provisions for Complaints. In accordance with R.S. 40:2009.13 et seq., the following requirements are established for receiving, evaluating, investigating, and correcting grievances pertaining to resident care in licensed nursing homes. They also provide for mandatory reporting of abuse and neglect in nursing homes.

B. Nursing Home Complaints, Procedure, Immunity

1. Any person having knowledge of the alleged abuse or neglect of a resident of a nursing home; or who has knowledge that a state law, licensing requirement, rule, or regulation, or correction order promulgated by the department, or any federal certification rule pertaining to a nursing home has been violated; or who otherwise has knowledge that a nursing home resident is not receiving care and treatment to which he is entitled under state or federal laws, may submit a complaint regarding such matter to the secretary (Department of Health and Hospitals). The complaint shall be submitted to the Health Standards Section of DHH in writing, by telephone, or by personal visit where the complainant will complete and sign a form furnished by the member of the secretary's staff receiving the complaint.

2. The secretary shall designate a staff member whose responsibility shall be to assure that all complaints received are referred to the appropriate office of the department (Health Standards Section).

3. If the complaint involves an alleged violation of any criminal law pertaining to nursing homes, the secretary shall refer the complaint to the appropriate office.

4. If the complaint involves any other matter, the secretary shall refer the complaint to the appropriate office for investigation in accordance with this Section.

5. Any person who, in good faith, submits a complaint pursuant to this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of such complaint. Such immunity shall extend to participation in any judicial proceeding resulting from the complaint.

C. Procedure for Investigation by the Office; Confidentiality of Complaints

1. The office of the department which has received the complaint from the secretary shall review the complaint and determine whether there are reasonable grounds for an investigation. No complaint shall be investigated if:

a. in the opinion of the office, it is trivial or not made in good faith;

b. it is too out dated and delayed to justify present investigation; or

c. the complaint is not within the investigating authority of the office.

2. If the office determines that grounds for an investigation do not exist, it shall notify the complainant of its decision and the reasons within 15 work days after receipt of such complaint.

3. If grounds for an investigation do exist, the office shall initiate an investigation of such complaint and make a report to the complainant on its findings within 30 work days after completion of the complaint investigation.

4. The substance of the complaint shall be given to the nursing home no earlier than at the commencement of the investigation of the complaint.

5. When the substance of the complaint is furnished the nursing home, it shall not identify the complainant or the patient unless he/she consents, in writing or in a documented telephone conversation with an employee, to the disclosure. If the disclosure is considered essential to the investigation or if the investigation results in a judicial proceeding, the complainant shall be given the opportunity to withdraw the complaint.

D. Investigation Report

1. The investigation report of the department shall state whether any nursing home licensing law, or any licensing requirement, rule, regulation, or correction order of the Department of Health and Hospitals, or any standard

relating to the health, safety, care, or treatment of residents in nursing homes has been violated.

a. If such violation is found to exist, the appropriate departmental staff shall immediately provide notice of such violation to the secretary.

b. The report shall also contain a deficiency statement to the nursing home. A copy of the report shall be sent by certified mail or hand-delivered to the complainant and to the nursing home.

2. The deficiency statement shall describe the violation; list the rule or law violated; and solicit corrective actions to be taken by the nursing home.

3. A nursing home which is ordered to correct deficiencies may file a written request that the department review the corrective action taken by the home and, if necessary, reinspect the home.

a. The department shall comply with the request in a timely manner.

b. If no such request is received, the department shall review the steps taken by the home in order to comply with the corrective order and, if necessary, reinspect the home on the final date fixed for completion of the correction of the violation.

4. If the violation is found to continue to exist on the correction date, the office shall notify the appropriate department to take further action as indicated applicable by state regulations.

E. Hearing

1. A complainant or nursing home who is dissatisfied with the department's determination or investigation may request a hearing.

2. A request for a hearing shall be submitted, in writing, to the secretary within 30 days after the department's report has been mailed in accordance with the provisions of R.S. 40:2009.15A(1).

3. Notice of the time and place fixed for the hearing shall be sent to the complainant and the nursing home.

4. All appeal procedures shall be conducted in accordance with the Administrative Procedure Act.

F. Prohibition Against Retaliation. No discriminatory or retaliatory action shall be taken by any health care facility or government agency against any person or client by whom or for whom any communication was made to the department or unit, provided the communication is made in good faith for the purpose of aiding the office or unit to carry out its duties and responsibilities.

G. Notice of the Complaint Procedure. Notice of the complaint procedure, complete with the name, address, and telephone number of the Health Standards Section of the Office of the Secretary of the Department of Health and Hospitals, shall be posted conspicuously in the nursing home at places where residents gather.

H. In accordance with R.S. 14:403.2, 14:93.3, 14:93.4, and 14:93.5, all nursing homes shall adhere to the adult protective services laws.

I. Duty to Make Complaints; Penalty; Immunity

1. Any person who is engaged in the practice of medicine, social services, facility administration, psychological or psychiatric treatment; or any registered nurse, licensed practical nurse, or nurse's aid, who has actual knowledge of the abuse or neglect of a resident of a health care facility shall, within 24 hours, submit a complaint to the secretary or inform the unit or local law enforcement agency of such abuse or neglect.

2. Any person who knowingly or willfully violates the provisions of this Section shall be fined not more than \$500; or imprisoned for not more than two months; or both.

3. Any person who, in good faith, submits a complaint pursuant to this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of such complaint. Such immunity shall extend to participation in any judicial proceeding resulting from the complaint.

4. Any person, other than the person alleged to be responsible for the abuse or neglect, reporting pursuant to this Section in good faith, shall have immunity from any civil liability that otherwise might be incurred or imposed because of such report. Such immunity shall extend to participation in any judicial proceeding resulting from such report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:49 (January 1998).

Subchapter C. Resident Rights

§9733. Statement of Rights and Responsibilities

A. In accordance with R.S. 40:2010.8 et seq., all nursing homes shall adopt and make public a statement of the rights and responsibilities of the residents residing therein and shall treat such residents in accordance with the provisions of the statement. The statement shall assure each resident the following:

1. the right to civil and religious liberties including, but not limited to, knowledge of available choices; the right to independent personal decision; and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these civil and religious rights;

2. the right to private and uncensored communications including, but not limited to, receiving and sending unopened correspondence; access to a telephone; visitation with any person of the resident's choice; and overnight visitation outside the facility with family and friends in accordance with nursing home policies and physician's orders without the loss of his bed;

a. nursing home visiting hours shall be flexible, taking into consideration special circumstances such as out-of-town visitors and working relatives or friends;

b. with the consent of the resident and in accordance with the policies approved by the Department of Health and Hospitals, the home shall permit recognized volunteer groups, representatives of community-based legal, social, mental health, and leisure and planning programs, and members of the clergy access to the home during visiting hours for the purpose of visiting with and providing services to any resident;

3. the right to present grievances on behalf of himself or others to the nursing home's staff or administrator, to governmental officials, or to any other person; to recommend changes in policies and services to nursing home personnel; and to join with other residents or individuals within or outside the home to work for improvements in resident care, free from restraint, interference, coercion, discrimination or reprisal. This right includes access to the resident's sponsor and the Department of Health and Hospitals; and the right to be a member of, to be active in, and to associate with advocacy or special interest groups;

4. the right to manage his own financial affairs or to delegate such responsibility to the nursing home, but this delegation may be only to the extent of the funds held in trust for the resident by the home. A quarterly accounting of any transactions made on behalf of the resident shall be furnished to the resident and his sponsor, if requested. A copy shall be retained in the resident's records on file in the home;

5. the right to be fully informed, in writing and orally, prior to or at time of admission and during his stay, of services not covered by the basic per diem rates and of bed reservation and refund policies of the home;

6. the right to be adequately informed of his medical condition and proposed treatment, unless otherwise indicated by the resident's physician; to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the resident's physician; and to be informed of the consequences of such actions;

7. the right to receive adequate and appropriate health care and protective and support services, including services consistent with the resident care plan, with established and recognized practice standards within the community and with rules promulgated by the Department of Health and Hospitals;

8. the right to have privacy in treatment and in caring for personal needs:

a. to have closed room doors, and to have facility personnel knock before entering the room, except in case of an emergency or unless medically contraindicated;

b. to have confidentiality in the treatment of personal and medical records;

c. to be secure in storing and using personal possessions, subject to applicable state and federal health and safety regulations and the rights of other residents; and

d. privacy of the resident's body shall be maintained during, but not limited to, toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance;

9. the right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and oral explanations of the services provided by the home, including statements and explanations required to be offered on an as-needed basis;

10. the right to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized by the attending physician for a specified and limited period of time or those necessitated by an emergency:

a. in case of an emergency, restraint may only be applied by a qualified licensed nurse, who shall set forth, in writing, the circumstances requiring the use of the restraint, and, in case of a chemical restraint, the attending physician shall be consulted immediately thereafter;

b. restraints shall not be used in lieu of staff supervision or merely for staff convenience or resident punishment, or for any reason other than resident protection or safety;

11. the right to be transferred or discharged:

a. a resident can be transferred or discharged only if necessary for his welfare and if his needs cannot be met in the facility; his health has improved sufficiently so that he no longer needs the services provided by the facility; the safety of individuals in the facility is endangered; the health of individuals in the facility would otherwise be endangered; he has failed, after reasonable and appropriate notice, to pay or have paid for a stay at the facility; or the facility ceases to operate;

b. both the resident and his legal representative or interested family member, if known and available, have the right to be notified, in writing, in a language and manner they understand, of the transfer and discharge. The notice must be given no less than 30 days in advance of the proposed action, except that the notice may be given as soon as is practicable prior to the action in the case of an emergency. In facilities not certified to provide services under Title XVIII or Title XIX of the Social Security Act, the advance notice period may be shortened to 15 days for nonpayment of a bill for a stay at the facility;

c. the resident, or his legal representative or interested family member, if known and available, has the right to appeal any transfer or discharge to the Department of Health and Hospitals, which shall provide a fair hearing in all such appeals;

d. the facility must ensure that the transfer or discharge is effectuated in a safe and orderly manner. The resident and his legal representative or interested family

member, if known and available, shall be consulted in choosing another facility if facility placement is required;

12. the right to select a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense; and to obtain information about, and to participate in, community-based activities and programs, unless medically contraindicated, as documented by the attending physician in the resident's medical record, and such participation would violate infection control laws or regulations;

13. the right to retain and use personal clothing and possessions, as space permits, unless to do so would infringe upon the rights of other residents or unless medically contraindicated, as documented by the attending physician in the resident's medical record. Clothing need not be provided to the resident by the home, except in emergency situations. If provided, it shall be of reasonable fit;

14. the right to have copies of the nursing home's rules and regulations and an explanation of the resident's responsibility to obey all reasonable rules and regulations of the nursing home and of his responsibility to respect the personal rights and private property of other residents;

15. the right to be informed of the bed reservation policy for a hospitalization:

a. the nursing home shall inform a private pay resident and his sponsor that his bed shall be reserved for any single hospitalization for a period up to 30 days, provided the nursing home receives reimbursement;

b. notice shall be provided within 24 hours of the hospitalization;

16. the right to receive a prompt response to all reasonable requests and inquiries;

17. the right of the resident to withhold payment for physician visitation if the physician did not examine the resident;

18. the right to refuse to serve as a medical research subject without jeopardizing access to appropriate medical care;

19. the right to use tobacco, at his own expense, under the home's safety rules and under applicable laws and rules of the state, unless the facility's written policies preclude smoking in designated areas;

20. the right to consume a reasonable amount of alcoholic beverages, at his own expense, unless:

a. not medically advisable, as documented in his medical record by the attending physician; or

b. unless alcohol is contraindicated with any of the medications in the resident's current regime; or

c. unless expressly prohibited by published rules and regulations of a nursing home owned and operated by a religious denomination which has abstinence from the consumption of alcoholic beverages as a part of its religious belief;

21. the right to retire and rise in accordance with his reasonable requests, if he does not disturb others and does not disrupt the posted meal schedules and, upon the home's request, if he remains in a supervised area unless retiring and rising in accordance with the resident's request is not medically advisable, as documented in his medical record by the attending physician;

22. the right to have any significant change in his health status immediately reported to him and his legal representative or interested family member, if known and available, as soon as such a change is known to the home's staff.

B. A sponsor may act on a resident's behalf to assure that the nursing home does not deny the resident's rights under the provisions of R.S. 40:2010.6 et seq., and no right enumerated therein may be waived for any reason whatsoever.

C. Each nursing home shall provide a copy of the statement required by R.S. 40:2010.8(A) to each resident and sponsor upon or before the resident's admission to the home and to each staff member of the home. The statement shall also advise the resident and his sponsor that the nursing home is not responsible for the actions or inactions of other persons or entities not employed by the facility, such as the resident's treating physician, pharmacists, sitter, or other such persons or entities employed or selected by the resident or his sponsor. Each home shall prepare a written plan and provide appropriate staff training to implement the provisions of R.S. 40:2010.6 et seq., including but not limited to, an explanation of the following:

1. the residents' rights and the staff's responsibilities in the implementation of those rights;

2. the staff's obligation to provide all residents who have similar needs with comparable services, as required by state licensing standards.

D. Any violations of the residents' rights set forth in R.S. 40:2010.6 et seq. shall constitute grounds for appropriate action by the Department of Health and Hospitals.

1. Residents shall have a private right of action to enforce these rights, as set forth in R.S. 40:2010.9. The state courts shall have jurisdiction to enjoin a violation of resident's rights and to assess fines for violations, not to exceed \$100 per individual violation.

2. In order to determine whether a home is adequately protecting residents' rights, inspection of the home by the Department of Health and Hospitals shall include private, informal conversations with a sample of residents to discuss residents' experiences within the home with respect to the rights specified in R.S. 40:2010.6 et seq., and with respect to compliance with departmental standards.

E. Any person who submits or reports a complaint concerning a suspected violation of residents' rights or concerning services or conditions in a home or health care facility or who testifies in any administrative or judicial proceedings arising from such complaint shall have

immunity from any criminal or civil liability therefor, unless that person has acted in bad faith with malicious purpose, or if the court finds that there was an absence of a justiciable issue of either law or fact raised by the complaining party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:50 (January 1998).

§9734. Resident Personal Fund Account

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

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

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

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

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

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

C. If a valid account agreement has not been executed, upon the resident's death, the nursing facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 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 33:1350 (July 2007), amended LR 34:880 (May 2008).

Subchapter D. Sanctions and Appeal Procedures

§9735. Authority and Scope

A. Any person or entity found to be in violation of any provision of R.S. 40:2009.1 through 40:2009.11 may be sanctioned by revocation of license, nonrenewal of license, or by civil fines as mandated by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:52 (January 1998).

§9737. Considerations

The secretary shall impose the sanction(s) which will bring the nursing home into compliance in the most efficient and effective manner, with the care and well-being of the residents being the paramount consideration. The secretary's decision shall be based on an assessment of some or all of the following factors:

1. whether the violations pose an immediate threat to the health or safety of the residents;
2. the duration of the violations;
3. whether the violation (or one that is substantially similar) has previously occurred during the last three consecutive surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:52 (January 1998).

§9739. Repeat Violations

The Department of Health and Hospitals shall have the authority to determine whether a violation is a repeat violation and shall inform the facility in its notice of that determination. Violations may be considered repeat violations by the Department of Health and Hospitals if the one or more of the following conditions are found to exist.

1. Where the Department of Health and Hospitals has established the existence of a violation as of a particular date, and the violation is one that may be reasonably expected to continue until corrective action is taken, the department may elect to treat said continuing violation as a repeat violation subject to appropriate fines for each day following the date on which the initial violation is established, until such time as there is evidence establishing a date by which the violation was corrected.

2. Where the Department of Health and Hospitals has established the existence of a violation, and another violation which is the same or substantially similar to the previous violation occurs within 18 months, the subsequent violation and all other violations thereafter shall be considered repeat violations subject to fines and other sanctions appropriate for repeat violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:53 (January 1998).

§9741. Notice and Appeal Procedure

A. Unless otherwise indicated, any sanction may be administratively appealed in the manner described in the nursing home law in Section 2009.11.

B. Notice to Facility of Violation. When the Department of Health and Hospitals has reasonable cause to believe, through an on-site survey, a complaint investigation, or other means that there exists or has existed a threat to the health, safety, welfare, or rights of a nursing facility resident, the department shall give notice of the violation(s) in the following manner.

1. The head of the survey team shall conduct an exit conference and give the facility administrator or his designee the preliminary finding of fact and the possible violations before leaving the facility.

2. The department shall follow the discussion with confirmed written notice, given by certified mail or hand delivery, to the facility administrator.

3. The department's written notice of deficiencies shall be consistent with the findings delineated at the conference and shall:

- a. specify the violation(s);
- b. cite the legal authority which established such violation(s);
- c. cite any sanctions assessed for each violation;
- d. inform the administrator that the facility has 10 days from receipt of notice, sent by certified mail or hand delivery, within which to request a reconsideration of the proposed agency action;
- e. inform the administrator of the facility that the consequences of failing to timely request an administrative appeal will be that the departmental determination will be considered final, and that no further administrative or judicial review will be had;
- f. inform the administrator of the facility if the department has elected to regard the violation(s) as repeat violation(s) or as continuing violation(s) and the manner in which sanctions will be imposed.

C. The facility may request administrative reconsideration of the department's findings. This request must be made, in writing, within 10 days after receipt of the initial notice from the state survey agency. This reconsideration of findings shall be conducted by designated employees of the department who did not participate in the initial decision to cite the deficiencies. Reconsideration shall be made on the basis of documents before the designated employees and shall include the survey report and statement of deficiencies and all documentation the facility submits to the department at the time of its request for reconsideration. Correction of a deficiency shall not be a basis for reconsideration. Oral presentations can be made by department spokesmen and facility spokesmen. This process is not in lieu of the appeals process. The designated employees shall have authority only to affirm the survey findings; revoke some or all of the cited deficiencies; or request additional information from either the department or the facility. The department shall notify the facility of its

decision within three working days after the oral presentation and receipt of all requested documentation. Participation in the reconsideration does not delay the imposition of recommended remedies.

D. If the facility requests an administrative appeal, such request shall:

1. state which violation(s) the facility contests and the specific reasons for disagreement;

2. be submitted to the Department of Health and Hospitals within 30 days of receipt of the secretary's decision on the final agency action by certified mail or hand delivery;

E. The administrative hearing shall be limited to those issues specifically contested and shall not include any claim or argument that the violation(s) have been corrected. Any violations not specifically contested shall become final, and sanctions shall be enforced at the expiration of the time for appeal. All violations/sanctions not contested shall become final at the expiration of the appeal request time period.

F. If the facility does not request an administrative appeal in a timely manner or does not submit satisfactory evidence to rebut the department's findings of a violation, the decision to impose sanctions will be final and the secretary shall have the authority to enforce sanctions, as provided in these regulations.

G. The department may institute all necessary civil court action to collect fines imposed and not timely appealed. No nursing facility may claim fines as reimbursable costs, nor increase charges to residents as a result of such fines. Interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:53 (January 1998).

§9743. Civil Money Penalties (Fines)

A. The following listed civil fines pertaining to classified violations may be assessed by the secretary against nursing homes. In the case of class "A" violations, the following civil fines shall be assessed. In the cases of class "B," "C," "D," or "E" violations, the secretary, in his discretion, may elect to assess the following civil fines or may allow a specified period of time for correction of said violation. For class "D" and "E" violations, the facility will be given notice of the fine at the time of the first violation and may be given an opportunity to demonstrate compliance before the fine becomes final.

1. If compliance is demonstrated on the follow-up visit, payment of the fine may be waived. In all instances the violation is counted and recorded.

2. If compliance is not demonstrated at the next visit, the penalty for a repeat violation will be assessed. No facility shall be penalized because of a physician's or consultant's

nonperformance beyond the facility's control or if the violation is beyond the facility's control, if the situation and the efforts to correct it are clearly documented.

3. It is not the intent that every violation found on a survey, inspection, or related visit should be accompanied by an administrative penalty.

B. Class "A" violations are subject to a civil fine which shall not exceed \$2,500 for the first violation. A second class "A" violation occurring within an 18-month period from the first violation shall not exceed \$5,000 per day.

C. Class "B" violations are subject to a civil fine which shall not exceed \$1,500 for the first violation. A second Class "B" violation occurring within an 18-month period from the first violation shall not exceed \$3,000 per day.

D. Class "C" violations are subject to a civil fine which shall not exceed \$1,000 for the first violation. A second Class "C" violation occurring within an 18-month period from the first violation shall not exceed \$2,000 per day.

E. Class "D" violations are subject to a civil fine which shall not exceed \$100 for the first violation. Each subsequent Class "D" violation within an 18-month period from the first violation shall not exceed \$250 per day.

F. Class "E" violations are subject to a civil fine which shall not exceed \$50 for the first violation. Each subsequent Class "E" violation occurring within an 18-month period from the first violation shall not exceed \$100 per day.

G. The total amount of fines assessed for violations determined in any one month shall not exceed \$5,000, except that the aggregate fines assessed for Class "A" or "B" violations shall not exceed \$10,000 in any one month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:54 (January 1998).

§9745. Classes of Violations Defined

A. *Class "A" Violations*—those violations which create a condition or occurrence relating to the operation and maintenance of a nursing home which result in death or serious harm to a resident.

B. *Class "B" Violations*—those violations which create a condition or occurrence relating to the operation and maintenance of a nursing home which create a substantial probability that death or serious physical harm to a resident will result from the violation.

C. *Class "C" Violations*—conduct, acts, or omissions which do not result in death or serious physical harm to a resident or the substantial probability thereof but create a condition or occurrence relating to the operation and maintenance of a nursing home that create a potential for harm by directly threatening the health, safety, rights or welfare of a resident are Class "C" violations.

D. *Class "D" Violations*—those violations which are related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a resident.

E. *Class "E" Violations*—Class "E" violations are defined as the failure of any nursing home to submit a statistical or financial report in a timely manner as required by regulations. The failure to timely submit a statistical or financial report shall be considered a separate Class "E" violation during any month or part thereof in noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:54 (January 1998).

§9747. Collection of Civil Fines Assessed

A. Civil fines assessed shall be final if:

1. no timely or proper appeal was requested;
 2. the facility admits the violations and agrees to pay;
- and
3. the administrative hearing is concluded with findings of violations and time for seeking judicial review has expired.

B. When civil fines become final, they shall be paid in full within 10 days of their commencement unless the department allows a payment schedule in light of a documented financial hardship. Such documentation shall be submitted within the 10-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:54 (January 1998).

§9749. Revocation of License

A. The secretary of the Department of Health and Hospitals may deny an application for a license or refuse to renew a license or may revoke an outstanding license when an investigation reveals that the applicant or licensee is in nonconformance with or in violation of the provisions of R.S. 40:2009.6, provided that in all such cases, the secretary shall furnish the applicant or licensee 30 calendar days written notice specifying reasons for the action.

B. The secretary, in a written notice of denial, nonrenewal, or revocation of a license, shall notify the applicant or licensee of his right to file a suspensive appeal with the Office of the Secretary within 30 calendar days from the date the notice, as described in this Subchapter, is received by him. This appeal or request for a hearing shall specify, in detail, reasons why the appeal is lodged and why the appellant feels aggrieved by the action of the secretary.

C. When any appeal, as described in this Subchapter, is received by the secretary, if timely filed, he shall appoint an impartial three-member board to conduct a hearing on the

appeal, at such time and place as such members deem proper, and after such hearing, to render a written opinion on the issues presented at the hearing. The written decision or opinion of a majority of the members conducting the hearing shall constitute final administrative action on the appeal.

D. Any member of said board or the secretary shall have power to administer oaths and to subpoena witnesses on behalf of the board or any party in interest and compel the production of books and papers pertinent to any investigation or hearing authorized by this Subchapter, provided that in all cases witness fees and transportation and similar hearing costs shall be paid by the appellant or by the Department of Health and Hospitals if the appellant is found innocent of charges. Any person, having been served with a subpoena, who shall fail to appear in response to the subpoena or fail or refuse to answer any question or fail to produce any books or papers pertinent to any investigation or hearing or who shall knowingly give false testimony therein shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment of not less than one month nor more than six months, or by both such fine and imprisonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:54 (January 1998).

Chapter 98. Nursing Homes

Subchapter A. Physician Services

§9801. Medical Director

A. The nursing home shall designate, pursuant to a written agreement, a physician currently holding an unrestricted license to practice medicine by the Louisiana State Board of Medical Examiners to serve as medical director.

B. The medical director shall serve as consultant regarding medical care policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:55 (January 1998).

§9803. Physician Supervision

A. A resident shall be admitted to the nursing home only with an order from a physician licensed to practice in Louisiana.

1. Each resident shall remain under the care of a physician licensed to practice in Louisiana and shall have freedom of choice in selecting his/her attending physician.

2. The nursing home shall be responsible for assisting in obtaining an attending physician, with the resident's or sponsor's approval, when the resident or sponsor is unable to find one.

B. Another physician supervises the medical care of residents when their attending physician is unavailable.

C. Any required physician task may also be satisfied when performed by an advanced-practice registered nurse or physician assistant who is not an employee of the nursing home, but who is working under the direction and supervision of a physician.

D. The nursing home shall provide or arrange for the provision of physician services 24 hours a day, in case of emergency.

E. The name and telephone numbers of the attending physicians and the physicians to be called in case of emergency, when the attending physician is not available, shall be posted at each nursing station. Upon request, the telephone numbers of the attending physician or his/her replacement in case of emergency shall be provided to the resident, guardian, or sponsor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:55 (January 1998).

§9805. Physician Visits and Responsibilities

A. At the time each resident is admitted, the nursing home shall have attending physician's orders for the resident's immediate care. At a minimum, these orders shall

consist of dietary, drugs (if necessary), and routine care to maintain or improve the resident's functional abilities.

B. If the orders are from a physician other than the resident's attending physician, they shall be communicated to the attending physician and verification entered into the resident's clinical record by the nurse who took the orders.

C. A physical examination shall be performed by the attending physician within 72 hours after admission, unless such examination was performed within 30 days prior to admission, with the following exceptions:

1. if the physical examination was performed by another physician, the attending physician may attest to its accuracy by countersigning it and placing a copy in the resident's record; or

2. if the resident is transferring from another nursing home with the same attending physician, a copy of the previous physical examination may be obtained from the transferring facility with the attending physician initialing its new date. The clinical history and physical examination, together with diagnoses shall be in the resident's medical record.

D. Each resident shall be seen by his/her attending physician at intervals to meet the medical needs of the resident, but at least annually.

E. At each visit, the attending physician shall write, date and sign progress notes.

F. The physician's treatment plan (physician's orders) shall be reviewed by the attending physician at least once annually.

G. Physician telephone/verbal orders shall be received only by physicians, pharmacists, or licensed nurses. These orders shall be reduced to writing in the resident's clinical record and signed and dated by the authorized individual receiving the order. Telephone/verbal orders shall be countersigned by the physician within seven days.

H. Use of signature stamps by physicians is allowed when the signature stamp is authorized by the individual whose signature the stamp represents. The administrative office of the nursing home shall have on file a signed statement to the effect that the physician is the only one who has the stamp and uses it. There shall be no delegation of signature stamps to another individual.

I. At the option of the nursing home attending physician, any required physician task in a nursing home may also be satisfied when performed by an advanced-practice registered nurse when these tasks are within their realm of education and practice, or physician assistant when these tasks are so identified within their protocols, and who is not an employee of the nursing home, but who is working under the direction and supervision of an attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:55 (January 1998).

§9807. Standing Orders

A. Physician's standing orders are permissible but shall be individualized, taking into consideration such things as drug allergies, sex-specific orders, and the pertinent physical condition of the resident.

B. Over-the-counter drugs are to be utilized on a physician's standing orders. Controlled or prescription drugs except those commonly used in routine situations, should not be on standing orders and must be an individual order reduced to writing on the physician's order sheet as either a routine or pro re nata (prn) order. Each order shall include the following:

1. name of the medication;
2. strength of the medication;
3. specific dose of the medication (not a dose range);
4. route of administration;
5. reason for administration;
6. time interval between doses for administering the medication;
7. maximum dosage or number of times to be administered in a specific time frame; and
8. when to notify the attending physician if the medication is not effective.

C. Standing orders shall be signed and dated by the attending physician initially and at least annually thereafter.

D. A copy of the standing orders shall be maintained in the resident's active clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:56 (January 1998).

Subchapter B. Nursing Services

§9809. General Provisions

A. The nursing home shall have sufficient nursing staff to provide nursing and related services that meet the needs of each resident. The nursing home shall assure that each resident receives treatments, medications, diets, and other health services as prescribed and planned, all hours of each day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:56 (January 1998).

§9811. Nursing Service Personnel

A. The nursing home shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses, and nurse aides to provide nursing care to all residents in accordance with resident care plans 24 hours per day.

1. As a minimum, the nursing home shall provide 1.5 hours of care per patient each day.

2. Nursing service personnel shall be assigned duties consistent with their education and experience, and based on the characteristics of the resident load and the kinds of nursing skills needed to provide care to the residents.

3. Nursing service personnel shall be actively on duty. Licensed nurse coverage shall be provided 24 hours per day.

B. The nursing home shall designate a registered nurse to serve as the director of nursing services on a full-time basis during the day-tour of duty. The director of nursing services may serve as charge nurse only when the nursing home has an average daily occupancy of 60 or fewer residents.

C. If the director of nursing services has non-nursing administrative responsibility for the nursing home on a regular basis, there shall be another registered nurse assistant to provide direction of care-delivery to residents.

D. There shall be on duty, at all times, at least one licensed nurse to serve as charge nurse responsible for the supervision of the total nursing activities in the nursing home or assigned nursing unit.

E. Nurse aides shall be assigned duties consistent with their training and successful demonstration of competencies.

F. In building complexes or multistory buildings, each building or floor housing residents shall be considered a separate nursing unit and staffed separate, exclusive of the director of nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:56 (January 1998).

§9813. Nursing Care

A. Each resident shall receive personal attention and nursing care in accordance with his/her condition and consistent with current acceptable nursing practice. Residents unable to carry out activities of daily living shall receive the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

B. Each resident shall be kept clean, dry, well-groomed and dressed appropriately to the time of day and the environment; and good body and oral hygiene shall be maintained. Skin care shall be provided to each resident as needed to prevent dryness, scaling, irritation, itching, and/or pressure sores.

C. Restorative nursing care shall be provided to each resident to achieve and maintain the highest possible degree of function, self-care, and independence. Restorative nursing care shall be provided for the residents requiring such care.

D. Residents requiring assistance at mealtimes shall be assisted when necessary.

E. The nursing home shall endeavor to keep residents free from pressure sores with measures taken toward their prevention.

F. Residents requiring restraints shall be restrained with standard types of devices, applied in a manner consistent with manufacturer's specifications, and that permits speedy removal in the event of an emergency. Each restrained resident shall be monitored every 30 minutes and released for 10 minutes every two hours. Restraints shall not be used for punishment nor convenience of staff.

G. The nursing home shall promptly inform the resident; consult with the resident's attending physician; notify the resident's legal representative or interested family member, if known; and maintain documentation when there is an accident which results in injury and requires physician intervention, or significant change in the resident's physical, mental, or psychosocial status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:56 (January 1998).

Subchapter C. Dietetic Services

§9815. General Provisions

A. The nursing home shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:57 (January 1998).

§9817. Dietary Service Personnel

A. The nursing home shall employ a licensed dietitian either full-time, part-time or on a consultant basis. A minimum consultation time shall be not less than eight hours per month to ensure nutritional needs of residents are addressed timely. There shall be documentation to support that the consultation time was given.

B. If a licensed dietitian is not employed full-time, the nursing home shall designate a full-time person to serve as the dietary manager.

C. Residents at nutritional risk shall have an in-depth nutritional assessment conducted by the consulting dietitian.

D. The nursing home shall employ sufficient support personnel competent to carry out the functions of the dietary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:57 (January 1998).

§9819. Menus and Nutritional Adequacy

A. Menus shall be planned, approved, signed and dated by a licensed dietitian prior to use in the nursing home to meet the nutritional needs of the residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council and the National Academy of Sciences, taking into account the cultural background and food habits of residents, or as modified in accordance with the orders of the practitioner(s) responsible for the care of the resident:

1. menus shall be written for each therapeutic diet ordered;

2. if cycle menus are used, the cycle shall cover a minimum of three weeks and shall be different each day of the week;

3. each day's menu shall show the actual date served and shall be retained for six months;

4. menus for the current week shall be available to the residents and posted where food is prepared and served for dietary personnel. Portion sizes shall be reflected either on the menu or within the recipe used to prepare the meal.

B. Therapeutic diets shall be prescribed by the medical practitioner responsible for the care of the resident. Each resident's diet order shall be documented in the resident's clinical record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and informing the dietary service when the resident does not receive the ordered diet or is unable to consume the diet, with action taken as appropriate.

1. The nursing home shall maintain a current list of residents identified by name, room number, and diet order, and such identification shall accompany each resident's meal when it is served.

2. A current therapeutic diet manual, approved by a registered dietitian, shall be readily available to attending physicians, nursing staff, and dietetic service personnel and shall be the guide used for ordering and serving diets.

C. Each resident shall receive and the nursing home shall provide:

1. at least three meals daily, at regular times comparable to normal mealtimes in the community;

2. food prepared by methods that conserve nutritive value, flavor, and appearance;

3. food that is palatable, attractive, and at the proper temperature;

4. food prepared in a form designed to meet individual needs; and

5. substitutes offered of similar nutritional value to residents who refuse food or beverages served.

D. A list of all menu substitutions shall be kept for 30 days.

E. There shall be no more than 14 hours between a substantial evening meal and breakfast the following day. A substantial evening meal is defined as an offering of three or more menu items at one time, one of which includes a high-quality protein such as meat, fish, eggs, or cheese.

F. There shall be no more than 16 hours between a substantial evening meal and breakfast the following day when a nourishing snack is offered at bedtime. A nourishing snack is defined as a verbal offering of items, single or in combination, from the basic food groups.

G. Bedtime nourishments shall be offered nightly to all residents, unless contraindicated by the resident's medical practitioner, as documented in the resident's clinical record.

H. If residents require assistance in eating, food shall be maintained at appropriate serving temperatures until assistance is provided. Feeder trays shall be delivered at the time staff is immediately available for feeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:57 (January 1998).

§9820. Feeding Assistants

A. Prior to assisting nursing facility residents with feeding, the assistant must have successfully completed the state-approved training course published by the American Health Care Association, *Assisted Dining: The Role and Skills of Feeding Assistants*.

1. Licensed personnel qualified to teach the course include:

- a. registered nurses;
- b. licensed practical nurses;
- c. dietitians; and
- d. speech therapists.

2. The competency of feeding assistants must be evaluated by course instructors and supervisory nurses.

3. If feeding assistants transfer between facilities, the receiving facility must assure competency.

B. Feeding assistants must be registered on the Direct Service Worker Registry (DSW) unless they are volunteers.

1. Volunteers must complete the training course except in cases where a family member or significant other is feeding the resident.

2. If verification of completion of training cannot be obtained from the DSW Registry, the training course must be taken.

C. The clinical decision as to which residents are fed by a feeding assistant must be made by a registered nurse (RN) or licensed practical nurse (LPN). It must be based upon the individual nurse's assessment and the resident's latest assessment and plan of care.

1. A physician or speech therapist may override the nurse's decision, if in their professional opinion, it would be contraindicated.

D. The use of a feeding assistant must be noted on the plan of care.

E. There must be documentation to show that the residents approved to be fed by feeding assistants have no complicated feeding problems.

1. Feeding assistants may not feed residents who have complicated feeding problems such as difficulty swallowing, recurrent lung aspirations and tube or IV feedings.

F. There must be documentation of on-going assessment by nursing staff to assure that any complications that develop are identified and addressed promptly.

G. A feeding assistant must work under the supervision of a RN or LPN and the resident's clinical record must contain entries made by the supervisory RN or LPN describing services provided by the feeding assistant.

H. Facilities may use feeding assistants at mealtimes or snack times, whenever the facility can provide the necessary supervision.

1. A feeding assistant may feed residents in the dining room or another congregate area.

I. Facilities may use their existing staff to feed residents as long as each staff member successfully completes the state-approved training course.

J. Facilities must maintain a record of all individuals used as feeding assistants who have successfully completed the training course.

K. Residents have the right to refuse to be fed by a feeding assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1067 (June 2006).

§9821. Equipment and Supplies

A. Special eating equipment and utensils shall be provided for residents who need them. At least a one week supply of staple food with a three-day supply of perishable food conforming to the approved menu shall be maintained on the premises.

B. An approved lavatory shall be convenient and properly equipped for dietary services staff use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:58 (January 1998).

§9823. Sanitary Conditions

A. All food shall be procured, stored, prepared, distributed, and served under sanitary conditions to prevent

food borne illness. This includes keeping all readily perishable food and drink according to *State Sanitary Code*.

B. Refrigerator temperatures shall be maintained according to *State Sanitary Code*.

C. Hot foods shall leave the kitchen or steam table according to *State Sanitary Code*.

D. In-room delivery temperatures shall be maintained according to *State Sanitary Code*.

E. Food shall be transported to residents' rooms in a manner that protects it from contamination, while maintaining required temperatures.

F. Refrigerated food which has been opened from its original package shall be covered, labeled, and dated.

G. All food shall be procured from sources that comply with all laws and regulations related to food and food labeling.

H. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.

I. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized, and stored. This includes:

1. maintaining a water temperature in dishwashing machines at 140°F during the wash cycle (or according to the manufacturer's specifications or instructions) and 180°F for the final rinse; or

2. maintaining water temperature in low temperature machines at 120°F (or according to the manufacturer's specification or instructions) with 50 ppm (parts per million) of hypochlorite (household bleach) on dish surfaces; or

3. maintaining a wash water temperature of 75°F, for manual washing in a three-compartment sink, with 25 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine in the final rinse water; or a hot water immersion at 170°F for at least 30 seconds shall be maintained.

J. Dietary staff shall not store personal items within the food preparation and storage areas.

K. The kitchen shall not be used for dining of residents or unauthorized personnel.

L. Dietary staff shall use good hygienic practices.

M. Dietary employees engaged in the handling, preparation and serving of food shall use effective hair restraints to prevent the contamination of food or food contact surfaces.

N. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

O. There shall be no use of tobacco products in the dietary department.

P. Toxic items such as insecticides, detergents, polishes, and the like shall be properly stored, labeled and used.

Q. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids. Containers used in food preparation and utensil washing areas shall be kept covered when meal preparation is completed and when full.

R. All ice intended for human consumption shall be free of visible trash and sediment.

1. Ice used for cooling stored food and food containers shall not be used for human consumption.

2. Ice stored in machines outside the kitchen shall be protected from contamination.

3. Ice scoops shall be stored in a manner so as to protect them from becoming soiled or contaminated between usage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:58 (January 1998).

Subchapter D. Pharmaceutical Services

§9825. General Requirements

A. The nursing home shall provide emergency drugs and biologicals to its residents from an emergency kit licensed by the Louisiana State Board of Pharmacy and shall provide routine and emergency drugs and biologicals, ordered by a licensed practitioner, from a licensed pharmacy. Whether drugs and biologicals are obtained from the emergency kit(s) or from a community or institutional pharmacy permitted by the Louisiana State Board of Pharmacy, the nursing home is responsible for ensuring the timely availability of such drugs and biologicals for its residents and that pharmaceutical services are provided in accordance with accepted professional standards and all appropriate federal, state, and local laws and regulations.

B. The most current edition of drug reference materials shall be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:58 (January 1998).

§9827. Consultant

A. If the nursing home does not employ a licensed pharmacist, it shall have a designated consultant pharmacist that provides services in accordance with accepted pharmacy principles and standards. The minimum consultation time shall not be less than one hour per quarter, which shall not include drug regimen review activities.

B. There shall be documentation to support that the consultation time was given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:59 (January 1998).

§9829. Labeling

A. All drug and biological containers shall be properly labeled by a licensed pharmacist following the guidelines established by the Louisiana State Board of Pharmacy.

B. The label on prepackaged (unit dose) containers shall follow the established guidelines of the Louisiana State Board of Pharmacy.

C. Over-the-counter (nonprescription) medications and biologicals, may be purchased in bulk packaging and shall be plainly labeled with the medication name and strength and any additional information in accordance with the nursing home's policies and procedures. Over-the-counter medications specifically purchased for a resident shall be labeled as previously stipulated to include the resident's name. The manufacturer's labeling information shall be present in the absence of prescription labeling.

D. The nursing home shall develop procedures to assure proper labeling for medications provided a resident for a temporary absence.

E. The nursing home shall have a procedure for the proper identification and labeling of medication brought into the nursing home from an outside source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:59 (January 1998).

§9831. Storage

A. All drugs and biologicals shall be stored in a locked area/cabinet and kept at proper temperatures and lighting. The medicine room or medication preparation area shall have an operable sink with hot and cold water, paper towels, and a soap dispenser.

B. Access to drug storage areas shall be limited to licensed nursing personnel, the licensed nursing home administrator, and the consultant pharmacist as authorized in the nursing home's policy and procedure manual. Any unlicensed, unauthorized individual (e.g., housekeepers, maintenance personnel, etc.) needing access to drug storage areas shall be under the direct visual supervision of licensed authorized personnel.

C. Medication requiring refrigeration shall be kept separate from foods, in separate containers, within a refrigerator and stored at a temperature range of 36° to 46°F.

1. Laboratory solutions or materials awaiting laboratory pickup shall not be stored in refrigerators with food and/or medication.

2. Medication for "external use only" shall be stored separate from other medication and food.

D. Separately locked, permanently affixed compartments shall be provided for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse.

E. Medications of each resident shall be kept and stored in their originally received containers, and transferring between containers is forbidden.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:59 (January 1998).

§9833. Disposition

A. Prescription and Over-The-Counter (OTC) medications and biologicals are to be disposed of in the following manner:

1. If medication(s) and/or biological are discontinued, or the resident is discharged to the hospital, the nursing home will retain the medication(s) for up to 60 days and then destroy as described in §9833.C.2. These must be stored in an appropriately secured storage area approved by the DON and consultant pharmacist. If the resident is deceased, the medication will be disposed of as described in §9833.C.2, unless a written order of the attending physician specifies otherwise. If the resident is transferred to another facility, the medication will accompany the resident to the receiving facility, on the written order of the attending physician.

2. Controlled drugs shall not be released or sent with a resident upon transfer or discharge, except on the written order of the attending physician.

B. If the resident/legal representative receives the medications or biologicals, upon written order of the physician, documentation containing the name and the amount of the medication or biological to be received shall be completed and signed by the resident or legal representative and a facility representative acknowledging their receipt. This document shall be placed in the resident's clinical record.

C. Expired medication(s) shall not be available for resident or staff use. These shall be destroyed on-site by nursing home personnel no later than 90 days from their expiration/discontinuation date utilizing the following methods:

1. Controlled drugs shall be destroyed on-site by a licensed pharmacist after receiving DEA authorization to do so on a continuing basis, and witnessed by a state or local law enforcement officer or other licensed nursing home individual, such as RN, LPN or MD. All controlled substances to be destroyed shall be inventoried and listed on a DEA Form 41, a copy of which shall be maintained on the premises, and a copy mailed to the Louisiana State Board of Pharmacy. These drugs shall also be listed on the resident's individual accumulative drug destruction record.

2. For noncontrolled drugs, there shall be documentation of the resident's name; name, strength, and

quantity of the drug destroyed; prescription number; method and date of destruction; signatures of at least two individuals (which shall be either licensed nurses who are employees of the nursing home, or the consultant pharmacist) witnessing the destruction. Medications of residents transferred to a hospital may be retained until the resident's return. Upon the resident's return, the physician's order shall dictate whether or not the resident is to continue the same drug regimen as previously ordered. Medications not reordered by the physician shall be destroyed, using the procedures outlined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:59 (January 1998).

§9835. Administration

A. Drugs and biologicals shall not be administered to residents unless ordered by a practitioner (e.g., physician, dentist, or Doctor of Osteopathy) duly licensed to prescribe drugs. Such orders shall be in writing over the practitioner's signature. Drugs and biologicals shall be administered only by medical personnel or licensed nurses authorized to administer drugs and biologicals under their practice act.

B. Drugs and biologicals shall be administered as soon as possible after doses are prepared, not to exceed two hours. They shall be administered by the same person who prepared the doses for administration, except under unit dose package distribution systems.

C. An individual resident may self-administer drugs if permissible by the nursing home's policy and procedure, and if an interdisciplinary team has determined that this practice is safe. The team shall also determine who will be responsible for storage and documentation of the administration of drugs. The resident's care plan shall reflect approval to self-administer medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:60 (January 1998).

§9837. Drug Regimen Review

A. The drug regimen of each resident shall be reviewed as often as dictated by the resident's condition. Irregularities shall be reported, in writing, to the resident's attending physician and director of nursing, and these reports shall be acted upon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:60 (January 1998).

§9839. Emergency Medication Kit

A. If an emergency medication kit is used in the nursing home, a permit shall be obtained and maintained in accordance with the Louisiana State Board of Pharmacy.

B. A separate permit is required for each emergency medication kit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:60 (January 1998).

§9841. Medication Record Keeping

A. General Records

1. Each resident shall have a Medication Administration Record (MAR) on which the dose of each drug or biological administered shall be properly recorded by the person administering the drug or biological to include:

- a. name, strength, and dosage of the medication;
- b. method of administration including site, if applicable;
- c. time of administration defined as one hour before to one hour after the ordered time of administration; and
- d. the initials of persons administering the medication along with a legend of the initials.

2. Medication errors and drug reactions shall be reported immediately to the resident's attending physician by a licensed nurse, and an entry made in the resident's record.

3. Medications not specifically prescribed as to time or number of doses shall automatically be stopped after a reasonable time that is predetermined by the nursing home's written policy and procedures. The attending physician shall be notified of an automatic stop order prior to the last dose so that he/she may decide if the administration of the medication is to be continued or altered.

B. Controlled Drugs

1. The nursing home shall establish a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate accounting of all controlled drugs received, administered, and destroyed or otherwise disposed. Only licensed medical personnel shall be allowed to receive and sign for delivery of controlled drugs.

2. Control records of schedule II drugs shall be maintained. The individual resident records shall list each type and strength of drug and the following information:

- a. date;
- b. time administered;
- c. name of resident;
- d. dose;
- e. physician's name;
- f. signature of person administering the dose; and
- g. the balance on hand.

C. Noncontrolled Drugs. Records of noncontrolled medication destruction shall be maintained in the resident's clinical record and shall include the following:

1. resident's name;
2. name, strength, and quantity of the medication;
3. prescription number;
4. method and date of destruction;
5. signatures of at least two individuals (which shall be either licensed nurses, who are employees of the nursing home, or the consultant pharmacist) witnessing the destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:60 (January 1998).

Subchapter E. Activity Services

§9843. Activities Program

A. A nursing home shall provide for an ongoing program of diverse and meaningful activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident.

B. The activities program encourages each resident's voluntary participation and choice of activities based upon his/her specific needs and interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:61 (January 1998).

§9845. Activity Service Personnel

A. The activities program shall be directed by a resident activities director. The resident activities director shall be responsible to the administrator or his/her designee for administration and organization of the activities program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:61 (January 1998).

Subchapter F. Social Services

§9847. Social Services

A. A nursing home shall provide medically-related social services to meet the needs of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:61 (January 1998).

§9851. Social Service Personnel

A. An employee of the facility shall be designated as responsible for meeting the social services needs of the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:61 (January 1998).

Subchapter G. Rehabilitation Services

§9853. Delivery of Service

A. Rehabilitative services, when provided in the nursing home, shall be delivered in a safe and accessible area. Rehabilitation services shall be provided under the written order of the resident's attending physician. These services shall be provided by appropriately credentialed individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:61 (January 1998).

§9855. Record Keeping

A. An initial assessment, established by the appropriate therapist, and a written rehabilitation plan of care shall be developed. The resident's progress will be recorded by the therapist at the time of each visit. This information will be maintained in the resident's clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:61 (January 1998).

Subchapter H. Resident Clinical Records

§9857. General Provisions

A. The nursing home shall maintain clinical records on each resident in accordance with accepted professional standards and practices. Each resident's clinical record shall be complete, accurately documented, readily accessible, and systematically organized to facilitate retrieving and compiling information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:61 (January 1998).

§9859. Maintenance of Records

A. The overall supervisory responsibility for the resident record service shall be assigned to a responsible employee of the facility.

B. All entries in the clinical record shall be either typewritten or legibly written in ink, dated, and signed.

C. If electronic signatures are used, the nursing home shall develop a procedure to assure the confidentiality of each electronic signature and to prohibit the improper or unauthorized use of any computer generated signature.

D. If a facsimile communications system (FAX) is used, the nursing home shall take precautions when thermal paper

is used to ensure that a legible copy is retained as long as the clinical record is retained.

E. A nursing home record may be kept in any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical, or similar form of data compilation which is approved for such use by the department.

F. No magnetic, electronic, optical, or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

G. A nursing home may, at its discretion, cause any nursing home record or part to be microfilmed, or similarly reproduced, in order to accomplish efficient storage and preservation of nursing home records.

H. Upon an oral or written request, the nursing home shall give the resident or his/her legal representative access to all records pertaining to himself/herself including current clinical records within 24 hours, excluding weekends and holidays. After receipt of his/her records for inspection, the nursing home shall provide, upon request and two working days notice, at a cost consistent with the provisions of R.S. 40:1299(A)(2)(b), photocopies of the records or any portions of them.

I. The nursing home shall ensure that all clinical records are completed within 90 days of discharge, transfer, or death. All information pertaining to a resident's stay is centralized in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:61 (January 1998).

§9861. Content

A. The clinical record contains sufficient information to identify the resident clearly, to justify the diagnosis and treatment, and to document the results accurately.

B. As a minimum, each clinical record shall contain:

1. sufficient information to identify the resident;
 2. physician's orders;
 3. progress notes by all practitioners and professional personnel providing services to the resident;
 4. a record of the resident's assessments;
 5. the plan of care;
 6. entries describing treatments and services provided;
- and
7. reports of all diagnostic tests and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998).

§9863. Confidentiality

A. The nursing home shall safeguard clinical record information against loss, destruction, or unauthorized use. The nursing home shall ensure the confidentiality of resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third party payment contract, or the resident. Information from or copies of records may be released only to authorized individuals, and the nursing home must ensure that unauthorized individuals cannot gain access to or alter resident records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998).

§9865. Retention

A. Clinical records shall be retained for a minimum of six years following a resident's discharge or death, unless the records are pertinent to a case in litigation, in which instance they shall be retained indefinitely or until the litigation is resolved.

B. A nursing home which is closing shall notify the department in writing at least 14 days prior to cessation of operation of their plan for the disposition of residents' clinical records for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998).

Chapter 99. Nursing Homes

Subchapter A. Physical Environment

§9901. General Provisions

A. The nursing home shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998).

§9903. Nurses' Station

A. Each floor of a multistory nursing home shall have a nurses' station.

B. Each nurse's station shall be provided with working space and accommodations for recording and charting purposes by nursing home staff with storage space for in-house resident records.

C. The nurses' station shall be equipped to audibly receive resident calls electronically through a call system from resident rooms and toilet and bathing facilities. There shall be a medicine preparation room or area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998).

§9905. Resident Rooms

A. Resident bedrooms shall be designed and equipped for adequate nursing care, comfort, and privacy of residents. Each resident bedroom shall have a floor, walls, and ceilings in good repair and so finished as to enable satisfactory cleaning.

B. Each resident's bedroom shall have a floor at or above grade level; accommodate no more than four residents; have a minimum width of not less than 10 feet; have a ceiling height of at least 7 feet; have electrical outlets in accordance with the *National Electrical Code* of which the construction plans were initially approved by DHH and the State Fire Marshal's Office; have direct access to an exit corridor; and be so situated that passage through another resident's bedroom is unnecessary.

C. A ceiling height of at least 8 feet shall be provided in nursing homes or additions to nursing homes in which construction plans were initially approved by DHH and the State Fire Marshal's Office after January 20, 1998.

D. Private resident bedrooms shall measure at least 100 square feet of bedroom area.

E. Multiple resident bedrooms shall measure at least 80 square feet of bedroom area for each resident.

F. There shall be at least three feet between the sides and foot of the bed and any wall, other fixed obstruction, or other

bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery. In nursing homes or additions to nursing homes in which construction plans were initially approved by DHH and the State Fire Marshal's Office after January 20, 1998, there shall be at least 4 feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

G. Each resident's bedroom shall have at least one window opening to the outside atmosphere. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

H. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998).

§9907. Resident Room Furnishings

A. Each resident shall be provided with an individual bed of proper size and height for the convenience of the resident and equipped with:

1. a clean spring in good repair;
2. a clean, comfortable, well-constructed mattress at least 5 inches thick with waterproof ticking and correct size to fit the bed;
3. a clean, comfortable pillow shall be provided for each bed with extra pillows available to meet the needs of the residents;
4. adequate bed rails, when necessary, to meet the needs of the resident; and
5. sheets and covers appropriate to the weather and climate.

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multiresident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory, or adjacent toilet room nor fully encapsulating the bedroom window must be provided.

C. The nurses' call system cords, buttons, or other communication mechanisms shall be placed where they are within reach of each resident.

D. Each resident shall be provided a bedside table with at least two drawers, and an enclosed hanging space for clothing that is accessible to the resident. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

E. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed for nursing homes in which construction plans were initially approved by DHH and the State Fire Marshal's Office after May 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998).

§9909. Locked Units

A. Nursing homes providing locked units must develop admission criteria. There must be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

B. Guidelines for admission shall be provided to either the resident, his/her family, and his/her legal representative.

C. Locked units are designed and staffed to provide the care and services necessary for the resident's needs to be met.

D. There must be sufficient staff to respond to emergency situations in the locked unit at all times.

E. The resident on the locked unit has the right to exercise those rights which have not been limited as a result of admission to the unit.

F. Care plans shall address the reasons for the resident being in the unit and how the facility is meeting the resident's needs.

G. Admission to a locked unit must be in compliance with R.S. 40:1299.53 and 40:2010.8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998).

§9911. Toilet, Hand Washing and Bathing Facilities

A. Each floor occupied by residents shall be provided with a toilet and lavatory, and either a bathtub or shower.

B. Each bedroom shall be equipped with or conveniently located near adequate toilet and bathing facilities appropriate in number, size, and design to meet the needs of residents.

C. In nursing homes built prior to August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed).

Lavatories	1:10 beds
Toilets	1:10 beds
Showers or tubs	1:15 beds

D. In nursing homes built after August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed).

Lavatories	One per bedroom or immediately adjacent thereto
Toilets	1:8 beds
Showers or tubs	1:10 beds

E. Bathrooms shall be easily accessible, conveniently located, well lighted, and ventilated to the outside atmosphere. Doors to bathrooms and toilet rooms used by residents shall be at least 2 feet 8 inches wide. The fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

F. Tub and shower bath bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in getting in and out of the tub or shower.

G. Separate toilet and lavatory facilities for use by employees shall be provided. Separate bathtubs, whirlpools, or showers shall be provided for employees who live on the premises.

H. Lights must be controlled by wall switches, which must be so placed that they cannot be reached from the bathtub, whirlpool, or shower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998).

§9913. Dining and Resident Activities

A. The nursing home shall provide one or more areas designated for resident dining and activities.

B. The dining room(s) or area(s) shall seat not less than 50 percent of the licensed capacity of the nursing home at one seating where plans were initially approved by the Fire Marshall on or after January 20, 1998. No smoking shall be allowed in these areas during meal times.

C. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

D. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998).

§9915. Linen and Laundry

A. The nursing home shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. All linen shall be in good condition.

C. All used linen shall be bagged or enclosed in appropriate containers for transportation to the laundry.

D. Soiled linen storage areas shall be ventilated to the outside atmosphere.

E. Linen from residents with a communicable disease shall be bagged, in readily identifiable containers distinguishable from other laundry, at the location where it was used.

F. Linen soiled with blood or body fluids shall be placed and transported in bags that prevent leakage.

G. If hot water is used, linen shall be washed with detergent in water at least 160°F for 25 minutes. If low-temperature (less than or equal to 158°F) laundry cycles are used, chemicals suitable for low-temperature washing, at proper use concentration, shall be used.

H. Provisions shall be made for laundering personal clothing of residents.

I. Clean linen shall be transported and stored in a manner to prevent its contamination.

J. Nursing homes providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

K. There shall be hand washing facilities for employees in the laundry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998).

§9917. Equipment and Supplies

A. The nursing home shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

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

C. Wheelchairs shall be available for emergency use by residents who are not fully ambulatory.

D. Equipment for taking vital signs shall be maintained.

E. At least one oxygen tank or resource of oxygen shall be readily accessible for emergency use.

F. An adequate number of battery-generated lamps or flash lights shall be available for staff use in case of electrical power failure.

G. There shall be at least one telephone adapted for use by residents with hearing impairments at a height accessible to bound residents who use wheelchairs and be available for resident use where calls can be made without being overheard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998).

§9919. Other Environmental Conditions

A. The nursing home shall provide a safe, clean, orderly, homelike environment.

B. The minimum resident capacity of a nursing home shall be 150 square feet gross area per resident. Bedroom square footage per bed is a part of this gross area.

C. There shall be a well lighted and ventilated living/community room with sufficient furniture.

D. There shall be a clean utility room designed for proper storage of nursing equipment and supplies.

E. There shall be a separate soiled utility room designed for proper cleansing, disinfecting, and sterilizing of equipment and supplies. As a minimum, it shall contain equipment to satisfactorily clean resident care equipment, a clinic service sink, and provisions for the storage of cleaning supplies (e.g., mops and pails) and chemical supplies.

F. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This requirement is minimum and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

G. The nursing home shall make arrangements for an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply must be used, if available. Private water supplies, if used, must meet the requirements of the *State Sanitary Code*.

H. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing, and sterilizing of cooking and food service dishes and other utensils, and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100°F, nor more than 120°F, at the faucet outlet.

I. The nursing home shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the *State Sanitary Code*.

J. The nursing home shall maintain a comfortable sound level conducive to meeting the need of the residents.

K. All plumbing shall be properly maintained and conform to the requirements of the *State Sanitary Code*.

L. There shall be at least one toilet room for employees and the public.

M. There shall be adequate outside ventilation by means of window, or mechanical ventilation or a combination of the two.

N. All openings to the outside atmosphere shall be effectively screened. Exterior doors equipped with closers in air conditioned buildings need not have screens.

O. Each room used by residents shall be capable of being heated to not less than 71°F in the coldest weather and capable of being cooled to not more than 81°F in the warmest weather.

P. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6' to 10' candles over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20' to 30' candles over areas used for reading or close work shall be available.

Q. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall.

R. There shall be an effective pest control program so that the nursing home is free of pest and rodent infestation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998).

Subchapter B. Infection Control and Sanitation

§9921. Organization

A. A nursing home shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:65 (January 1998).

§9923. Infection Control Program

A. An infection control committee shall be established consisting of the medical director and representatives from at least administration, nursing, dietary, and housekeeping personnel.

B. The committee shall establish policies and procedures for investigating, controlling, and preventing infections in the nursing home, and monitor staff performance to ensure proper execution of policies and procedures.

C. The committee shall approve and implement written policies and procedures for the collection, storage, handling, and disposal of medical waste.

D. The committee shall meet at least quarterly, documenting the content of its meetings.

E. Reportable diseases as expressed in the *State Sanitary Code* shall be reported to the local parish health unit of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:65 (January 1998).

§9925. Employee Health Policies and Procedures

A. Nursing home employees with a communicable disease or infected skin lesions shall be prohibited from direct contact with residents or their food, if direct contact will transmit the disease.

B. The nursing home shall require staff to wash their hands after each direct resident contact for which hand washing is indicated by accepted professional practice. An antimicrobial gel or waterless cleaner may be used between resident contact, when appropriate. The nursing home shall follow the Centers for Disease Control's *Guideline for Hand Washing and Hospital Environmental Control*, 1985 for hand washing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:65 (January 1998).

§9927. Isolation

A. When the infection control program determines that a resident needs isolation to prevent the spread of infection, the nursing home shall isolate the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:65 (January 1998).

§9929. Housekeeping

A. There shall be sufficient housekeeping personnel to maintain a safe, clean, and orderly interior.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:65 (January 1998).

§9931. Nursing Care Equipment

A. Bedpans, urinals, emesis basins, wash basins, and other personal nursing items shall be thoroughly cleaned after each use and sanitized as necessary. Water pitchers, when provided, shall be sanitized as necessary.

B. All catheters, irrigation sets, drainage tubes, or other supplies or equipment for internal use, and as identified by the manufacturer as one-time use only, will be disposed of in accordance with the manufacturer's recommendations.

C. Disposable syringes used for feeding purposes shall be disposed of in accordance with the manufacturer's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:65 (January 1998).

§9933. Waste and Hazardous Materials Management

A. The nursing home shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:66 (January 1998).

RULE
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Nursing Facilities—Minimum Licensing Standards
(LAC 48:1.9717, 9820, 9911)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:1.9717 and 9911, and adopts 9820 as authorized by R.S. 36:254 and 40:2009.1-2116.4. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing

Chapter 97. Nursing Homes
Subchapter A. General Provisions
§9717. Administration

A. Facility Administrator. All facilities are required to have full-time administrators. Full-time administrators are persons who are licensed, currently registered and engaged in the day-to-day management of the facility. The administrator's duties shall conform to the following standards.

1. Administrative/management activities shall be the major function of the required duties.

2. An adequate and reasonable amount of time shall be spent on the premises of the facility. The administrative activities must be the major function of the person performing the duties.

3. A major portion of the time, described above, shall be spent during the normal work week of the facility's personnel.

B. A full-time employee functioning in an administrative capacity shall be authorized in writing to act in the administrator's behalf when he/she is absent or functioning as a full-time administrator for two facilities.

C. Administrator Responsibilities and Restrictions

1. No individual may function as a full-time administrator for more than two nursing facilities. When a full-time administrator is engaged in the management of two nursing facilities, the facilities' sizes and proximity to one

another have considerable bearing on the administrator's ability to adequately manage the affairs of both nursing facilities.

a. The response time to either facility shall be no longer than one hour.

b. If an administrator serves two facilities, he/she must spend 20 hours per week at each facility.

2. The administrator or his designee is responsible, in writing, for the execution of all policies and procedures.

3. If a change occurs in the individual who is the administrator of a nursing facility, notice shall be provided to the Bureau of Health Services Financing, Health Standards Section by the facility administrator or, in the absence of an administrator, by the governing body of the facility at the time the change occurs.

a. Notice shall include the identity of all individuals involved and the specific changes which have occurred.

b. Failure to provide written notice by certified mail within 30 calendar days from the date a change occurs will result in a Class C civil money penalty.

c. The Department shall allow nursing facilities 30 days from the date of the change in the position to fill the resulting vacancy in the administrator position. There shall be no waiver provisions for this position.

d. The governing body of the facility shall appoint a facility designee charged with the general administration of the facility in the absence of a licensed administrator.

e. Failure to fill a vacancy or to notify the Department in writing by the thirty-first day of vacancy that the administrator position has been filled shall result in a Class C civil money penalty.

D. Assistant Administrator. A nursing facility with a licensed bed capacity of 161 or more beds must employ an assistant administrator. An assistant administrator shall be a full-time employee and function in an administrative capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:47 (January 1998), amended LR 32:1067 (June 2006).

Chapter 98. Nursing Homes
Subchapter C. Dietetic Services
§9820. Feeding Assistants

A. Prior to assisting nursing facility residents with feeding, the assistant must have successfully completed the state-approved training course published by the American Health Care Association, *Assisted Dining: The Role and Skills of Feeding Assistants*.

1. Licensed personnel qualified to teach the course include:

- a. registered nurses;
- b. licensed practical nurses;
- c. dietitians; and
- d. speech therapists.

2. The competency of feeding assistants must be evaluated by course instructors and supervisory nurses.

3. If feeding assistants transfer between facilities, the receiving facility must assure competency.

B. Feeding assistants must be registered on the Direct Service Worker Registry (DSW) unless they are volunteers.

1. Volunteers must complete the training course except in cases where a family member or significant other is feeding the resident.

2. If verification of completion of training cannot be obtained from the DSW Registry, the training course must be taken.

C. The clinical decision as to which residents are fed by a feeding assistant must be made by a registered nurse (RN) or licensed practical nurse (LPN). It must be based upon the individual nurse's assessment and the resident's latest assessment and plan of care.

1. A physician or speech therapist may override the nurse's decision, if in their professional opinion, it would be contraindicated.

D. The use of a feeding assistant must be noted on the plan of care.

E. There must be documentation to show that the residents approved to be fed by feeding assistants have no complicated feeding problems.

1. Feeding assistants may not feed residents who have complicated feeding problems such as difficulty swallowing, recurrent lung aspirations and tube or IV feedings.

F. There must be documentation of on-going assessment by nursing staff to assure that any complications that develop are identified and addressed promptly.

G. A feeding assistant must work under the supervision of a RN or LPN and the resident's clinical record must contain entries made by the supervisory RN or LPN describing services provided by the feeding assistant.

H. Facilities may use feeding assistants at mealtimes or snack times, whenever the facility can provide the necessary supervision.

1. A feeding assistant may feed residents in the dining room or another congregate area.

I. Facilities may use their existing staff to feed residents as long as each staff member successfully completes the state-approved training course.

J. Facilities must maintain a record of all individuals used as feeding assistants who have successfully completed the training course.

K. Residents have the right to refuse to be fed by a feeding assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1067 (June 2006).

Chapter 99. Nursing Homes

Subchapter A. Physical Environment

§9911. Toilet, Hand Washing and Bathing Facilities

A. Each floor occupied by residents shall be provided with a toilet and lavatory, and either a bathtub or shower.

B. ...

C. In nursing homes built prior to August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed):

Lavatories	1:10 beds
Toilets	1:10 beds
Showers or tubs	1:15 beds

D. In nursing homes built after August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed):

Lavatories	One per bedroom or immediately adjacent thereto
Toilets	1:8 beds
Showers or tubs	1:10 beds

E. - F. ...

G. Separate toilet and lavatory facilities for use by employees shall be provided. Separate bathtubs or showers shall be provided for employees who live on the premises.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended LR 32:1068 (June 2006).

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