



# Residential Home Class, B

January 1, 2022 changes are noted in yellow highlight

## Chapter 69. Child Residential Care, Class B

### §6951. Purpose

NOTE: This Section has been moved from LAC 67:I.1951.

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1564 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009).

### §6953. Authority

NOTE: This Section has been moved from LAC 67:I.1953.

A. Legislative Provisions. The licensing authority of the Department of Social Services is established by R.S. 46:1401 et seq., and R.S. 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A Class "B" child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24-hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody, and no state or federal funds received for the care of the children.

#### B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed.

2. As mandated by R.S. 46:1421, whoever operates any child care facility or child-placing agency as defined in R.S. 46:1403, including any child residential facility, without a valid license issued by the department shall be fined not less than \$1,000 for each day of such offense.

#### C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice, all child care facilities and child placing agencies subject to the provisions of the Chapter". (R.S. 46:1417).

2. When the department is advised or has reason to believe that any person, agency or organization is operating a child residential facility without a license, the department shall make an investigation to ascertain the facts.

3. When the department is advised or has reason to believe that any person, agency or organization is operating in violation of the Class "B" Child Residential Care Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment received by the department will be investigated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013).

**§6955.Procedures**

NOTE: This Section has been moved from LAC 67:I.1955.

A. Initial Application

1. New buildings shall be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located, considering such issues as scale, appearance, density and population. A child residential facility shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services, Bureau of Licensing. The following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances for the area in which you are planning to locate. Guidelines from the Office of Public Health, Sanitarian Services; the Office of State Fire Marshal, Code Enforcement and Building Safety; and the city fire department (if applicable) should be obtained.

b. After securing property, obtain an application form issued by:

Department of Social Services  
Bureau of Licensing  
P.O. Box 3078  
Baton Rouge, LA 70821-3078  
Phone: (225) 922-0015  
Fax: (225) 922-0014

c. After the facility's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

- i. Office of Public Health, Sanitarian Services;
- ii. Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. office of city fire department (if applicable);
- iv. zoning department (if applicable); and
- v. city or parish building permit office.

d. Upon receipt of the facility's application by the Bureau of Licensing, a request will be made to the Office of State Fire Marshal, Code Enforcement and Building Safety; office of city fire department (if applicable); Office of Public Health and any known required local agencies to inspect the location as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A licensing specialist shall visit the facility to conduct a licensing inspection.

e. A license will be issued on an initial application when the following requirements have been met and verification is received by the Bureau of Licensing:

- i. approval by the Office of Public Health, Sanitarian Services;
- ii. approval by the Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. approval by the city fire department (if applicable);
- iv. approval by the city or parish zoning (if applicable);

- v. approval by the city or parish building permit (if applicable);
- vi. a completed licensure inspection verifying compliance with these standards;
- vii. full license fee paid; and
- viii. any owner/owners of a residential facility shall provide documentation of a satisfactory criminal record check, as required through the FBI as noted in §6966.A and/or 6966.B, as applicable and required by R.S. 46:51.2 and 15:587.1.

3. When a facility changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §7955.A.2.e shall be in compliance for the new location.

4. When a facility changes ownership, a new application and fee shall be submitted. All approvals listed in §7955.A.2.e shall be current. Documentation is required from the previous owner assuring change of ownership; e.g., letter from previous owner, copy of bill of sale or a lease agreement.

5. All new construction or renovation of a facility requires approval from agencies listed in §7955A.2.c and the Bureau of Licensing.

6. The department is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked for the facility's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If an administrator or member of his immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal or denial have been corrected and the administrator/facility is in substantial compliance with all minimum standards.

#### B. Fees

1. An initial application fee of \$25 shall be submitted with all initial license applications. This fee will be applied toward the license fee when the facility is licensed. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all changes of ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. However, Class "B" child care facilities or agencies owned or operated by a church or religious organization are exempt from license fees. Fee schedules (based on licensed capacity) are listed below:

- a. 4 to 6 children—\$400;
- b. 7 to 15 children—\$500; and
- c. 16 or more children—\$600.

3. Other licensure fees include:

a. replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. (There is no replacement charge when the request coincides with the regular renewal of a license.); and

b. processing fee of \$5 for issuing a duplicate license with no changes.

#### C. Renewal of the License

1. A license shall be renewed on an annual basis. The month of issue of the initial license becomes the anniversary month for all renewals. A license shall expire on the last day of the anniversary month unless prior to that time the provider has made timely application for renewal as provided in Subparagraph C.2 below.

2. The provider shall submit, at least 60 days prior to its license expiration date, a completed renewal application form and applicable fee. Failure to submit a completed renewal form, applicable fee, and any of the documentation listed below within the time frame set forth herein shall cause the license to expire on its anniversary date. Once a license has expired, a provider may submit an application for an initial license in the manner prescribed in these regulations. The following documentation shall be submitted with the renewal application form:

- a. Office of Fire Marshal approval for occupancy;
- b. Office of Public Health, Sanitarian Services approval;
- c. city fire department approval, if applicable;
- d. copy of proof of current general liability and property insurance for facility;
- e. copy of proof of insurance for vehicle(s); and
- f. copy of a satisfactory fingerprint-based criminal record check through the FBI as noted in §6966.A and/or 6966.B, as applicable and required by R.S. 46:51.2 and 15:587.1 for any owner/owners.

3. Prior to renewing the CRF license, an on-site survey shall be conducted to assure compliance with all licensing laws and standards. If the CRF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing survey finds the CRF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely, or submission of a corrective action plan deemed by the department to be insufficient to adequately address the deficiencies in a timely and effective manner, shall be grounds for non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department at its sole discretion, may issue an extension of the license for a period not to exceed 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license may be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

#### D. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied for any of the following reasons:
  - a. failure to meet any of the minimum standards for licensure; or
  - b. conviction of a felony by any of these persons, as shown by a certified copy of the record of the court of conviction:
    - i. the applicant;
    - ii. any members or officers if the applicant is a firm or corporation; or
    - iii. any staff providing care, supervision, or treatment to a resident of the facility.
2. A license may be revoked or renewal denied for any of the following reasons:

- a. cruelty or indifference to the welfare of the children in care;
- b. violation of any provision of the minimum standards, rules, regulations, or orders of the Department of Social Services;
- c. disapproval from any agency whose approval is required for licensure;
- d. nonpayment of licensure fee or failure to submit a licensure application;
- e. any validated instance of child abuse, corporal punishment, physical punishment, or cruel, severe or unusual punishment may result in revocation, denial or nonrenewal of the license if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;
- f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;
- g. any act of fraud such as falsifying or altering documents required for licensure;
- h. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner's name appears on the registry, or if the staff member's name appears on the registry and remains in the employment of the licensee;
- i. knowingly permit an individual with a justified (valid) finding of child abuse and/or neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding prior to receipt of the official notification from Child Welfare that the individual is listed on the state central registry;
- j. have a criminal background, as evidenced by the employment or ownership or continued employment or ownership of or by any individual (paid or unpaid staff) who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or to any offense involving a juvenile victim;
- k. own a child residential business and have been convicted of or have pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense;
- l. have knowledge that a convicted sex offender is on the premises of the child care facility and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge;
- m. have knowledge that a convicted sex offender is physically present within 1,000 feet of the child care facility and fail to notify law enforcement immediately upon receipt of such knowledge; or
- n. permit an individual to be on the premises or to have access to children/youth when listed on the state central registry.

#### E. Appeal Procedure

1. If a license is denied or revoked because a facility does not meet the minimum requirements for licensure, the Department of Social Services shall notify the licensee or applicant in writing of the denial or revocation, of the reasons for the denial or revocation, and of the right to appeal the agency action.
2. The administrator or owner may appeal this decision by submitting a written request for a fair hearing, together with the reasons he/she believes the decision to be incorrect, to the Department of Social Services Appeals Bureau, P.O. Box 2994, Baton Rouge, LA 70821. The written request must be submitted within 15 days of receipt of notice of the department's notice, in the case of a revocation or non-renewal, or within 30 days of receipt of the notice of denial of a new application for an initial license.
3. A fair hearing shall be conducted by an administrative law judge within 30 days of filing the request for hearing.
4. Following the hearing, the administrative law judge shall render a decision within 90 days and shall notify the appellant in writing of the decision, either affirming or reversing the department's original action. If the department's action is upheld, the revocation or denial shall be effective immediately.

5. If a facility continues to operate without a license following a decision upholding revocation the department may file suit in the district court in the parish in which the facility is located seeking injunctive relief and statutory fines of not less than \$75 per day nor more than \$250 per day for each day the facility has operated without a license.

F. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child residential care facility within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

G. Disqualification from Application

1. Definitions, as used in Section 6955.G:

*Affiliate*—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. with respect to a natural person:
  - (a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;
  - (b). any partnership, together with any or all its partners, in which that person is a partner; and
  - (c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
- iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or
- v. director of any such child residential care home.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*License*—

- i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; or
- ii. any license issued by the Department of Health and Hospitals to operate any facility providing services under Title XIX or XX of the Social Security Act; or

iii. any license issued by the Department of Health and Hospitals (or formerly issued by the Department of Social Services) to operate any adult residential care facility.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

## 2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this Section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:971 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:508 (April 2019), effective May 1, 2019, LR 46:687 (May 2020), effective June 1, 2020.

### **§6957. Definitions**

NOTE: This Section has been moved from LAC 67:I.1957.

*Abuse and Neglect Reporting*—any suspected abuse and/or neglect of a child in a child care center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

*Administrator*—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation. The administrator shall have a Bachelor's degree in a social services field and four years of experience in a similar type of child care facility, or a Master's degree and two years of related experience.



*Bedroom Space*—a distinct area used as a sleeping area for clients; a dormitory-style bedroom may be broken into several bedroom spaces by the use of partitions. A facility shall have a minimum of 60 square feet of floor area per child in living areas accessible to children and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

*Client*—a person who receives service from a provider.

*Client's Service Plan*—a daily care plan based on the assessment of a client's psychological, social and educational evaluations.

*Contractor*—any person who renders professional services, therapeutic services, enrichment services, or counseling to residents such as educational consulting, athletic, or artistic services within a residential home, whose services are not integral to either the operation of the residential home or to the care and supervision of residents. Contractors may include, but are not limited to social workers, counselors, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, art instructors, state-certified teachers employed through a local school board, and other outside contractors. A person shall not be deemed a contractor if he/she is a staff person of the residential home.

*Curator*—a person appointed by the court when an individual is interdicted to act as guardian with either limited or full powers over the individual's estate and/or person, depending upon the needs of the individual interdicted.

*Department (DCFS)*—Department of Children and Family Services formerly the Department of Social Services.

*Discipline*—a system of rules governing conduct which usually prescribes consequences for the violation of particular rules.

*Direct Service Management*—the act of controlling the various aspects of a provider involving direct services to clients in order to ensure effective care and treatment.

*Direct Service Worker*—any employee of a provider who works directly with clients as a major function of his/her job.

*Documentation*—written evidence or proof, signed and dated by the parties involved (director, parents, staff, etc.), and available for review.

*DSS*—Department of Children and Family Services.

*Facility*—any place, program, institution, or agency operating a child care facility or child-placing agency as defined in R.S. 46:1403, including those owned or operated by governmental, private, or religious organization or entity.

*Family*—the natural or adoptive father, mother, brother(s) and sister(s), but "family" may be interpreted broadly to include any person, whether related to the client by blood or not, who resides in the client's home and takes part in the client's family life.

*Governing Body*—a person or persons with the ultimate responsibility for conducting the affairs of a provider as, for example, the board of directors.

*Legally Responsible Person*—as appropriate, the parent(s) or tutor of a minor or the curator of an interdicted client.

*License*—a written certification, whether provisional, extended or regular, of a provider's authorization to operate under state law.

*Licensing Section*—DCFS, Division of Programs, Licensing Section.

*Living Unit*—an integral living space utilized by a particular group of clients who reside in that space.

*Mandated Reporter*—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes

any person who provides training and supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under Article 603 of the Children's Code or other applicable law.

*Owner or Operator*—individual or juridical entity exercising direct or indirect control over a licensed entity.

1. For licensing purposes the following are considered owners:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

*Parent(s)*—natural or adoptive mother and father of a client.

*Passive Physical Restraint*—the least amount of direct physical contact required on the part of a staff member to prevent a client from harming himself/herself or others.

*Provider*—any 24-hour residential facility, whether public or private, that services clients.

*Psychotropic Medication*—prescription medication given for the purpose of producing specific changes in mood, thought processes, or behavior. They exert specific effects on brain function and can be expected to bring about specific clinically beneficial responses in clients for whom they are prescribed. The term as used in this policy does not include all drugs which affect the central nervous system or which may have behavioral effects; e.g., anticonvulsants or hormones.

*Reasonable Suspicion*—to have or acquire information containing specific and articulable facts indicating that an owner, operator, current or potential employee, or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor with a justified (valid) finding currently recorded on the state central registry.

*Resident*—an individual who receives care at a residential home and whose parents do not live in the same facility nor is the individual related to the owner of the facility.

*Restraint*—the extraordinary restriction of a client's freedom or freedom of movement.

*Safety Interventions*—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a child(ren).

*Service Plan*—a comprehensive, time-limited goal-oriented, individualized plan for care, treatment and education of a client in the care of a provider. The service plan is based on a current comprehensive evaluation of the client's needs.

*Social Worker*—a Master's level professional.

*Staff*—all full or part-time paid or unpaid staff who perform services for the child residential facility and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper excluding extra-curricular personnel.

*State Central Registry*—repository that identifies individuals with certain justified (valid) findings of abuse and/or neglect of a child or children by the Department of Children and Family Services.

*Time-Out Procedure*—the isolation of a client for a period of less than 30 minutes in an unlocked room.

*Training*—any activity outside the normal routine of the provider which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

*Treatment Strategy*—an orientation or set of clinical techniques included in a particular therapeutic model and used to meet a diagnosed need of a client in care over and above the provisions of basic care.

*Unlicensed Operation*—operation of any child residential facility, at any location, without a valid, current license issued by the department for that location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2742 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1619 (August 2009), amended by the Department of Children and Family Services, Division of Program, Licensing Sections, LR 38:972 (April 2012), amended by the Department of Children and Family Services, Licensing Sections, LR 45:509 (April 2019), effective May 1, 2019, LR 46:687 (May 2020), effective June 1, 2020.

### **§6959. Administration and Organization**

NOTE: This Section has been moved from LAC 67:I.1959.

A. Class "B" facilities must comply with all regulations set by the Office of the State Fire Marshal, the Office of Public Health, local zoning laws and all laws regarding child abuse or neglect. Client-staff ratios and minimum space requirements will be enforced by the Department of Social Services. Class "B" facilities must comply with regulations restricting hiring felons, prohibiting racial discrimination and prohibiting the use of corporal punishment without parental permission, and with all other regulations promulgated by the Department of Social Services. Core regulations must promote safe physical facilities, adequate supervision and qualified staff, healthful food service, procedures for nighttime care, and procedures for the disposition of complaints.

#### B. General Requirements

1. A provider shall follow federal and state laws on client civil rights. No residential facility shall discriminate based on race, color, creed or national origin or ancestry. However, this shall not restrict the hiring or admission policies of a church or religious organization which may give preference in hiring or admission to members of the church or denomination.

2. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department and without previous notice, all residential child care facilities subject to the provisions of Chapter 14 of Title 46. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. The facility shall be open to inspection only during working hours by parents or legal guardians of clients in care and by authorized inspection personnel.

3. Owners shall have a fingerprint-based criminal background check through the FBI on file with the residential home as noted in Section 6966.A and/or Section 6966.B, as applicable in accordance with R.S. 46:51.2 and 15:587.1.

4. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance conducted through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

5. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

6. CBCs/attestation forms shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

7. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a child residential facility as defined in R.S. 46:1403.

8. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the child residential facility. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the child day care facility as required by R.S. 14:91.1.

9. All owners shall have documentation of a state central registry clearance as required in §6962.

10. In accordance with R.S. 46:1428 providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year.

11. A new fingerprint-based satisfactory criminal background check through the FBI and Louisiana State Central Registry clearances are required if an individual is terminated, resigns, or no longer provides services for longer than one 24-hour period and is then re-instated.

C. Other Jurisdictional Approvals. The provider shall show appropriate evidence of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory

bodies including DSS Licensing Bureau, Office of Health Services, Office of the State Fire Marshal, city fire marshal's office (if applicable), applicable local zoning ordinances (if applicable) and Department of Education (if applicable).

D. Governing Body

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

2. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership, if applicable; officers of the governing body, if applicable; and terms of office of all officers, if applicable.

3. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year. A provider shall have written minutes of all formal meetings of the governing body, and by-laws specifying the frequency of meetings and quorum requirements.

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

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the provider is adequately funded and fiscally sound;
4. review and approve the provider's annual budget;
5. ensure that the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;
6. designate a person to act as chief administrator and delegate sufficient authority to this person to manage the provider;
7. formulate and annually review, in consultation with the chief administrator, policies concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;
8. annually evaluate the chief administrator's performance;
9. have the authority to dismiss the chief administrator;
10. meet with representatives of DSS whenever required to do so;
11. inform representatives of DSS prior to initiating any substantial changes in the program, services, or physical plant of the provider.

F. Accessibility of Executive. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff or representatives of DSS at all times.

G. Documentation of Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.
2. A privately owned provider shall have documents identifying the names and addresses of owners.
3. A corporation, partnership or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, articles of association or by-laws.

H. Statement of Philosophy and Goals. A provider shall have a written statement describing its philosophy and both long-term and short-term goals.

I. Program Description. A provider shall have a written program plan describing the services and programs offered by the provider.

J. Accounting and Recordkeeping

1. A provider should establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.
2. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.
3. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state and federal laws.

K. Confidentiality and Security of Files

1. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and the provider, as custodian, shall secure records against loss, tampering or unauthorized use.
2. A provider shall maintain the confidentiality of all clients' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly or indirectly, to any unauthorized person.
3. A provider shall obtain written authorization of the client and the client's parent(s), tutor or curator, as applicable, prior to releasing the client's confidential records to anyone other than authorized state or federal agencies or another provider to whom the client may be released.
4. A provider shall, upon request, make available information in the case record to the client, the legally responsible person or legal counsel of the client. If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be damaging to a client, then that information may be withheld except under court order.
5. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that the client's name and other identifying information is disguised or deleted.

L. Administrative File. A provider shall have an administrative file including:

1. documents identifying the governing body;
2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;
3. documentation of the provider's authority to operate under state law;
4. organizational chart of the provider;
5. insurance policies; and
6. master list of all consulting professional providers used by the provider.

M. Client's Case Record. A provider shall have a written record for each client which shall include administrative, treatment, and educational data from the time of admission until the time the client leaves the provider. A client's case record shall include:

1. name, sex, race, religion, birth date and birthplace of the client;
2. other identification data including court status, legal status, who is authorized to give consents;
3. client's history including, if applicable, family data, educational background, employment record, prior medical history and prior placement history;
4. copy of the client's individual service plan and any modifications thereto, and an appropriate summary to guide and assist direct service workers in implementing the client's program; and

5. findings made in periodic reviews of the plan, including summary of the successes and failures of the client's program and recommendations for any modifications deemed necessary.

N. Medical and Dental Records

1. A provider shall maintain complete health records of a client including:

- a. report of admission physical examination;
- b. complete record of all immunizations provided;
- c. record of medications;
- d. records of vision, physical or dental examinations;
- e. complete record of any medical treatment provided for specific illness or medical emergencies; and
- f. authorization signed by the parent or legal guardian for medical care, immunizations and hospitalization, when indicated.

2. Upon discharge the provider shall provide a summary of the client's health record to the person or agency responsible for the future planning and care of the client.

3. A provider shall make every effort to compile a complete past medical history on every client. This history shall, whenever possible, include:

- a. allergies to medication;
- b. immunization history;
- c. history of serious illness, serious injury or major surgery;
- d. developmental history;
- e. current use of prescribed medication;
- f. current use of alcohol or nonprescribed drugs; and
- g. medical history.

O. Personnel File

1. A provider shall have a personnel file for each employee which shall contain:

- a. application for employment and/or résumé;
- b. three reference letters from former employer(s) and personal references or phone notes on such references;
- c. any medical examinations required by the provider;
- d. documentation of a satisfactory fingerprint-based criminal record check for each staff person through the FBI as noted in Section 6966.C and/or Section 6966.D, as applicable and required by R.S. 46:51.2.;
- e. evidence of applicable professional credentials/certifications according to state law;
- f. annual performance evaluations;
- g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility;
- h. employee's starting and termination dates;
- i. documentation of a state central registry clearance as required in §6962.

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

3. A provider shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

P. Fund Raising and Publicity

1. A provider shall have a policy regarding participation of clients in activities related to fund raising and publicity.

2. Consent of the client and, if applicable, the legally responsible person shall be obtained prior to participation in fund raising activities.

3. A provider shall have policies and procedures regarding the photographing and audio or audio-visual recording of clients.

4. The written consent of the client and, if applicable, the legally responsible person shall be obtained before the client is photographed or recorded for research or program publicity purposes.

5. All photographs and recordings shall be used in a manner which respects the dignity and confidentiality of the client.

Q. Representation at Hearings. A provider shall, when allowed by law, have a representative present at all judicial, educational or administrative hearings which address the status of the client in care of the provider.

R. Facility, Staff, Client and Records Accessibility

1. The provider shall allow representatives of DCFS access to the facility, the children, and all files and records at any time during hours of operation and/or anytime a child is present. DCFS staff shall be allowed to interview any staff member or child as determined necessary by DCFS. DCFS representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DCFS representatives shall be permitted to verify that no child is present in that portion and that the private areas are inaccessible to children. If as a result of a preliminary investigation, or other DCFS inspection, DCFS determines that one or more safety issues exists, DCFS may require implementation of a safety intervention plan. In such a case, the provider shall cooperate and adhere to any written safety intervention as determined, enumerated, and mandated by DCFS staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1620 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:973 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:509 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

**§6961. Human Resources**

NOTE: This Section has been moved from LAC 67:I.1961.

A. Staff Plan. A provider should have a policy for recruitment, supervision and training.

1. Screening

a. A provider's screening procedures should address the prospective employee's qualifications, ability, related experience, character, and social skills as related to the appropriate job description.

b. Prior to employing any person and upon obtaining a signed release and the names of references from the potential employee, a provider shall obtain written references or phone notes on oral references from three persons.



c. All center staff shall be required to obtain within two weeks before or 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is:

- i. in good health and physically able to care for clients; and
- ii. free from infectious and contagious diseases.

d. Prior to or 30 days after the time of employment all persons shall be free of tuberculosis in a communicable state as evidenced by a negative skin test or a negative chest X-ray. Evidence that an employee is free of active tuberculosis is required on an annual basis thereafter.

e. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

f. A provider shall not knowingly hire, or continue to employ, any person whose health impairs his/her ability to properly protect the health and safety of the clients or is such that it would endanger the physical or psychological well being of the clients. This requirement is not to be interpreted to exclude the hiring or continued employment of persons undergoing temporary medical or emotional problems if the health and safety of the clients can be assured through reasonable accommodation of the employee's condition.

2. Orientation. A provider's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the facility, and shall include instruction in safety and emergency procedures and in the specific responsibilities of the employee's job.

### 3. Training

a. A provider is encouraged to provide in-service training each year. Orientation training and activities related to routine supervision of the employee's task shall not be considered as in-service training.

b. All staff are to maintain a current certification of CPR training. New employees will have 90 days to comply. Documentation will be a copy of certificates on file at the facility.

### 4. Evaluation

a. A provider should undertake an annual performance evaluation of all staff members.

b. For any person who interacts with clients, a provider's evaluation procedures shall address the quality and nature of a staff member's relationships with clients.

B. Personnel Practices. A provider shall have written personnel policies and written job descriptions for each staff position.

### C. Number and Qualifications of Staff

1. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the responsibilities the provider undertakes are carried out and to adequately perform the following functions:

- a. administrative functions;
- b. fiscal functions;
- c. clerical functions;
- d. housekeeping, maintenance and food service functions;
- e. direct client service functions;
- f. supervisory functions;
- g. record keeping and reporting functions;
- h. social service functions; and

i. ancillary service functions.

2. A provider shall ensure that all staff members are properly certified and/or licensed as legally required.

3. A provider shall ensure that an adequate number of qualified direct service staff are present with the clients as necessary to ensure the health and well-being of clients. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider and the ages, needs and functioning levels of the clients.

4. A provider shall ensure that direct services staff who perform client-living services are administratively responsible to a person whose training and experience is appropriate to the provider's program.

D. External Professional Services. A provider shall obtain any required professional services not available from employees.

E. Volunteers/Student Interns. A provider which utilizes volunteers or student interns on a regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall be:

1. directly supervised by a paid staff member;

2. oriented and trained in the philosophy of the facility and the needs of clients and the methods of meeting those needs;

3. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;

4. aware of and briefed on any special needs or problems of clients;

5. have a criminal background check for each volunteer through the FBI as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in §6966.C and/or 6966.D., as applicable; and

6. free of a valid finding of child abuse and/or neglect as noted on the state central registry in accordance with §6962.

F. Staff Communications

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

a. a regular review of individual and aggregate problems of clients including actions taken to resolve these problems;

b. sharing of daily information, noting unusual circumstances, and other information requiring continued action by staff; and

c. records maintained of all accidents, personal injuries and pertinent incidents related to implementation of clients' individual service plans.

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

3. A provider shall establish procedures which facilitate participation and feedback by staff members in policymaking, planning and program development for clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1570 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2745 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1622 (August 2009), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:975 (April 2012), amended by

the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

### **§6962. State Central Registry**

#### **A. State Central Registry Checks for Owners**

1. Prior to May 1, 2019, in accordance with R.S. 46:1414.1, all owners and operators affiliated with a facility were required to have on file a state central registry clearance form from child welfare stating that the owners/operators were not listed on the state central registry. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of a residential home.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

2. Prior to May 1, 2019, all owners and operators affiliated with a facility were required to have on file a clearance from any other state's child abuse and neglect registry in which the owner/operator resided within the proceeding five years. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child was eligible to own, operate, or participate in the governance of the residential home.

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana, but own/operate a residential home in Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. A request for a state central registry clearance from the state in which the owner/operator resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the residential home.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a residential home.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

5. Upon notification from child welfare that an owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the child welfare notification that the owner's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

6. A request for a state central registry clearance shall be submitted by provider for all owners/operators to child welfare every five years prior to the date noted on the state central registry clearance notification and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry.

7. If the owner/operator receives a justified (valid) finding after receiving notification from child welfare that he was not listed on the state central registry and the owner/operator advises the provider prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter.

a. The owner/operator shall be directly supervised by a paid staff (employee) of the residential home and at any and all times when he/she is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect.

b. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. Upon notification to the provider from child welfare that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance of the residential home. The owner/operator may voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the residential home board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his position on the board or has been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit to licensing documentation verifying that the individual's name has been removed from the Secretary of State's website if the CPA is owned/operated by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

9. Any information received or knowledge acquired by a provider that a current owner is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

10. State central registry clearances are not transferable from one owner to another.

#### B. State Central Registry Checks for Staff and Volunteers

1. Prior to employment, staff record shall contain a state central registry clearance form indicating that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry with a justified finding of child abuse and/or neglect.

a. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a state central registry clearance form from child welfare noting that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on

any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

b. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff (paid, non-paid, and volunteers) person resided within the preceding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) persons who have resided in another state within the preceding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to children/youth. Other states State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. **A request for a state central registry clearance from the state in which the staff/volunteer resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS.** No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Upon notification from child welfare that the staff (paid, non-paid, and volunteers) is not listed on the state central registry, the provider shall maintain on file the state central registry clearance form noting that the staff's (paid, non-paid, and volunteers) name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. A request shall be submitted to child welfare every five years for staff (paid, non-paid, and volunteers) prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff (paid, non-paid, and volunteers) may be listed on the state central registry.

e. If after the initial state central registry clearance form is received by provider from child welfare noting that the staff (paid, non-paid, and volunteers) is not listed on the state central registry and due to a new valid finding, the staff (paid, non-paid, and volunteers) receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

f. Upon notification to the provider from child welfare that the staff (paid, non-paid, and volunteers) is listed on the state central registry, the staff (paid, non-paid, and volunteers) shall no longer be eligible for employment with the residential home. The provider shall submit a signed, dated statement to licensing within 24 hours, but no later than the next business day indicating that the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect has been terminated. If this statement

is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

g. Any information received or knowledge acquired by the provider that a current staff (paid, non-paid and volunteer) is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. State central registry clearances are not transferable from one owner to another.

C. State Central Registry Checks for Contractors

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file at the facility a state central registry clearance form which indicates that the contractor is not listed on any State Central registry with a valid finding of child abuse and/or neglect.

a. Prior to May 1, 2019, all contractors providing services to the residential home were required to have on file a state central registry clearance form from child welfare that the contractor is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed residential home.

b. Prior to May 1, 2019, all contractors providing services to the residential home were required to have on file a clearance from any other state's child abuse and neglect registry in which the contractor resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed residential home.

c. For individuals who have resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to providing services or having access to children/youth.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Other state's State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but contract with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. A request for a state central registry clearance from the state in which the contractor resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

e. Upon notification from child welfare that the individual is not listed on the state central registry, the provider shall maintain on file the state central registry clearance indicating that the individual's name

does not appear on the registry with a justified (valid) finding of abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible to provide services in a licensed residential home.

f. A request shall be submitted to child welfare every five years for contractors prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

g. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the valid (justified) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the residential home at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the residential home. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the valid (justified) finding of abuse and/or neglect has been relieved of his duties with the residential home with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

i. Any information received or knowledge acquired by the provider that a current contractor is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth,. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

j. State central registry clearances are not transferable from one owner to another.

#### D. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner, contractor, volunteer and/or staff, is a perpetrator of abuse and/or neglect after October 1, 2018, with a justified (valid) determination of abuse and/or neglect prior to receipt of official notification from Child Welfare, shall be verbally reported to Licensing management staff immediately and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the maternity home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from Child Welfare that the individual is or is not listed on the state central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

### **§6963. Quality of Life**

NOTE: This Section has been moved from LAC 67:I.1963.

#### **A. Family Involvement**

1. A provider should create a policy that encourages ongoing positive communication and contact between clients and their families, their friends and others significant in their lives.

2. A provider should discuss the following with the client's family, other legally responsible persons and significant others, when appropriate:

- a. the philosophy and goals of the provider;
- b. behavior management and disciplinary practices of the provider;
- c. any specific treatment or treatment strategy employed by the provider that is to be implemented for a particular client;
- d. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with clients by mail or telephone;
- e. the name, telephone number and address of a staff person who may be contacted by the legally responsible person to ask questions or register concerns on an ongoing basis;
- f. a procedure for registering complaints concerning the client's care or treatment. All cases of client abuse or neglect or suspicion of abuse or neglect must be reported to the Child Protection Agency in the DSS Office of Community Services for investigation.

3. Visits to parents and relatives in their own homes should be encouraged, unless they are not of benefit to the client, in order to maintain not only family ties but also ties in the neighborhood and community.

4. A written description of these family involvement strategies is suggested.

#### **B. Normalization. A provider shall ensure that:**

1. clients of grossly different ages, developmental levels and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together;
2. clients who are nonambulatory, deaf, blind, epileptic, etc., shall be integrated with peers of comparable social and intellectual development and shall not be segregated on the basis of their handicaps.

#### **C. Community Involvement**

1. The client should have opportunities to participate in community life when individual treatment has progressed, so that community activities can become part of the treatment plan.

2. The client might participate in activities sponsored by school, church, and national and local youth agencies (Girl Scouts, Boy Scouts, 4-H Clubs, etc.).

3. The client should have help, when necessary, to conform to community standards.

4. Mass excursions, transportation in vehicles labeled with the name of the center, wearing of uniforms, etc., are undesirable if they call attention to the clients and make them feel different from others.

5. Community interest in clients and efforts in their behalf (parties, entertainment, invitations to visit other families, etc.) should be carefully evaluated to ascertain that they are of benefit to the clients and do not exploit their dependency status.

#### **D. Communication and Visits**



1. Telephone Communication

- a. A provider shall allow a client to receive and originate telephone calls, subject only to reasonable rules and to any specific restriction in the client's service plan.
- b. Any restriction on telephone communication in a client's service plan must be formally approved and shall be reviewed every 30 days.

2. Mail

- a. A provider shall allow clients to send and receive mail unopened and unread by staff, unless contraindicated by a restriction in the client's service plan which shall be reviewed every 30 days.
- b. A provider shall ensure that clients have access to all materials necessary for writing and sending letters and shall, when necessary, ensure that clients who wish to correspond with others are given any required assistance.

3. Visits

- a. A provider shall allow a client to visit or be visited by family and friends, subject only to reasonable rules and to any specific restrictions in the client's service plan.
- b. Special restrictions shall be imposed only to prevent serious harm to the client. The reasons for any special restrictions shall be recorded in the client's service plan.
- c. Special restrictions must be reviewed every 30 days. If restrictions are renewed, the reasons for renewal shall be recorded in the client's service plan.
- d. A written description of these rules and procedures is suggested.

E. Routines

1. A provider shall have a written set of daily routines for clients that are designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to clients and in the provision of adequate periods of recreation, privacy, rest and sleep.
2. Routines should be determined in relation to needs and convenience of both clients and adults living together.
3. Routines should be sufficiently adaptable to a particular client's physical and emotional capacity to conform to them or to allow for special situations.

F. Money and Personal Belongings

1. A provider shall permit and encourage a client to possess his/her own money, either by giving an allowance and/or providing opportunities for paid work, unless otherwise indicated.
2. Money earned, received as a gift or received as allowance by a client shall be deemed to be that client's personal property.
3. Limitations may be placed on the amount of money a client may possess or have unencumbered access to when such limitations are considered to be in the client's best interests.
4. A provider should, as appropriate to the client's age and abilities, provide training in budgeting, shopping and money management.
5. A provider shall allow a client to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the client's service plan. However, the provider shall, as necessary, limit or supervise the use of these items while the client is in care. When extraordinary limitations are imposed, the client shall be informed by staff of the reasons.
6. The security of having and keeping possessions of one's own contributes to a sense of autonomy and identity. Clients should have a safe place for their belongings. Individual storage space should be provided

for their collections, play equipment, and other "treasures." Clients with particularly valuable keepsakes may need staff help to keep them safe.

#### G. Work

1. Each client should be assigned daily or weekly chores that provide opportunities to learn to assume responsibility and to get satisfaction from contributing to work that must be done, according to age, health, interest, ability, and readiness.

2. The chores should be similar to those of family members in the neighboring community. Clients should not be depended upon to do work for which staff should be employed. There should be a limit on the amount of work expected.

3. Staff should approve and supervise all chore assignments. Clients should be encouraged to complete chores, but not forced. Policy for this situation should be covered under the provider's behavior management practices.

4. Clients may be given jobs for which they receive payment, which should be clearly differentiated from duties expected of any client in the course of daily living.

5. When a client engages in off-grounds work, the provider should ensure that:

- a. such work is voluntary and in accordance with the client's abilities;
- b. the work has been approved by staff;
- c. such work is supervised by qualified personnel;
- d. the conditions and compensation of such work are in compliance with applicable state and federal laws; and
- e. such work does not conflict with the client's service plan.

#### H. Recreation and Activities

1. Recreation cannot be separated from the total living experience of the client. Play is a learning experience as important as formal education. A recreation program should offer indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs.

2. A provider should provide recreational services based on the individual needs, interests and functioning levels of the clients served.

3. A provider should utilize the recreational resources of the community whenever appropriate. The provider should arrange the transportation and supervision required for maximum usage of community resources.

4. Exercise promotes health and physical development. When clients improve in fitness, their self-concept also improves. Active group play and competitive activities can be balanced by quiet or independent pursuits.

5. A residential care provider should provide adequate recreational equipment and yard space to meet the needs and abilities of its clients. Recreational equipment should be selected in accordance with the number of clients, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. Clients should have time to be alone and to engage in solitary activities that they enjoy, such as reading, drawing, playing with dolls, puppets and other toys, working on collections, roller-skating and bicycling. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Use of television may have to be governed by rules about hours when viewing is allowed and about choice of programs.

1. Birthdays. Each client's birthday should be celebrated individually in an appropriate manner in the group living unit.

J. Religion

1. A provider should clearly explain its religious orientation, particular religious practices which are observed, and any religious restrictions on admission. This description shall be provided to the client; the legally responsible person, when appropriate; and the responsible agency.

2. The nonsectarian agency has responsibility to provide opportunities for the client who wants to have an appropriate religious affiliation and religious experiences in accordance with the religious preferences of the parents.

3. The agency under religious auspices, whose religious program is an integral part of its service, should make it clear that its service is so based. Clients whose parents want them to make use of such a service should be able to do so.

4. Clients and families who do not choose to participate in religious activities should not be expected to do so in any residential center.

K. Clothing

1. A provider shall ensure that clients are provided with clean, well-fitting clothing appropriate to the season and to the client's age, sex and individual needs. Clothing shall be maintained in good repair.

2. All clothing provided to a client shall go with the client at discharge.

3. Clothing shall belong to the individual client and not be shared in common.

4. Clothing contributes to the client's feeling of worth and dignity. It represents being valued by adults, respect for individuality and having someone who cares for him or her. Clothing should be provided in a manner that helps the client develop self-esteem and a sense of personal responsibility.

L. Personal Care and Hygiene

1. A provider shall establish procedures to ensure that clients receive training in good habits of personal care, hygiene and grooming, appropriate to their age, sex, and race.

2. Each client should have the personal help that all persons need at times, regardless of age, in waking, dressing, deciding what to wear, combing hair, caring for clothing, grooming, getting ready for meals or school, keeping appointments, going to bed, etc.

M. Food Services

1. It is preferable to have one person in charge of food service who is familiar with nutrition, food service and management. The person responsible for food service should be aware of clients with special nutritional needs, and manage the resources of the dietary services to achieve effective food delivery.

2. A provider shall ensure that a client is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day. Meal times shall be comparable to those in a normal community home.

3. A provider should develop written menus at least one week in advance.

4. Records of foods purchased shall be maintained on file for 30 days. Menus should provide for a sufficient variety of foods and shall vary from week to week.

5. No client shall be denied a meal for any reason except according to a doctor's order.

6. No client shall be forced-fed or aggressively coerced to eat against his/her will except by order of a doctor.

7. When meals are provided to staff, a provider shall ensure that staff members eat substantially the same food served to clients in care, unless age differences or special dietary requirements dictate differences in diet.

8. A provider shall purchase and provide to clients only food and drink of safe quality, and the storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented.

9. Milk and milk products shall be Grade A and pasteurized.

#### N. Health Care

1. A provider shall ensure the availability of a comprehensive program of preventive, routine and emergency medical and dental care, as appropriate, for all clients.

2. The provider shall show evidence of access to the following health care aspects:

- a. ongoing appraisal of the general health of each client;
- b. provision for health education, as appropriate;
- c. establishment of an ongoing immunization program;
- d. approaches that ensure that any medical treatment administered will be explained to the client in language suitable to his/her age and understanding;
- e. an ongoing relationship with a licensed physician and dentist to advise the provider concerning medical and dental care;
- f. availability of a physician or fully equipped clinic on a 24-hour a day, seven-day a week basis;
- g. provision for a dental examination as soon as practical after acceptance of the client for care and for treatment, including necessary prophylaxis, orthodontia, repairs and extractions when indicated, and for annual re-examinations; and
- h. access to psychiatric and psychological resources, on both an emergency and ongoing basis, as appropriate to the needs of clients.

#### O. Medical Care

1. A provider shall arrange a general medical examination by a physician for each client within two weeks of admission unless the client has received such an examination within 30 days before admission and results of this examination are available to the provider. This examination shall include:

- a. an examination of the client for physical injury and disease;
- b. vision and hearing screening; and
- c. a current assessment of the client's general health.

2. Each client taken into care should be immunized against common contagious diseases, including vaccination for smallpox and immunization against diphtheria, tetanus, poliomyelitis, whooping cough, measles and rubella.

3. Whenever indicated, the client shall be referred to an appropriate medical specialist for either further assessment or treatment, i.e., if indicated, neurological examination and psychiatric evaluation, and tuberculin test, including chest X-ray.

4. A provider must ensure that a client receives competent medical care in keeping with community standards of medical practice when he/she is ill. A physical examination shall be arranged when poor health is indicated.

5. When there has been insufficient time to prepare a client for placement, and if an adequate medical history can be obtained, the routine physical examination, as well as routine medical procedures, such as immunization, may be postponed.

#### P. Dental Services

1. A provider should have an organized system for providing comprehensive diagnostic dental services for all clients, which includes a complete extra- and intra-oral examination, utilizing all diagnostic aids

necessary to properly evaluate the client's oral condition within a period of one month following admission, unless such an examination is in the client's case record.

2. A provider shall have access to comprehensive dental treatment services for all clients which include:
  - a. provision for dental treatment;
  - b. provision for emergency treatment on a 24-hour, seven-day-a-week basis by a qualified dentist;
  - c. a recall system that will assure that each client is re-examined at specified intervals in accordance with his/her needs, but at least annually.
3. A copy of the permanent dental record shall be provided to a provider when a client is transferred.

Q. Mental Health Services

1. A provider shall have access to the following services in accordance with the needs of clients:
  - a. psychological services;
  - b. psychiatric services; and
  - c. social work services.
2. A provider shall ensure that all providers of professional and special services:
  - a. provide services directly through personal contact with the client;
  - b. provide services indirectly through contact with staff members and others working with the client;
  - c. develop and record appropriate plans, goals and objectives for the client and, as appropriate, the client's family;
  - d. record all significant contacts with the client;
  - e. periodically provide written summaries of the client's response to the service, the client's current status relative to the service, and the client's progress, to be maintained in the client's case record;
  - f. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;
  - g. provide services appropriately integrated into the overall program.
3. A provider shall ensure that any professional or special service provided by the provider has:
  - a. adequately qualified and, when appropriate, appropriately licensed or certified staff according to state or federal law;
  - b. adequate space and facilities;
  - c. appropriate equipment;
  - d. adequate supplies; and
  - e. appropriate resources.
4. A provider shall ensure that any professional or special service provided by a person or agency outside the provider meets all relevant requirements contained herein.

R. Psychological Services

1. A provider should provide psychological services, as appropriate, to the needs of the clientele, including strategies to maximize each client's development of perceptual skills, sensorimotor skills, self-help skills, communication skills, social skills, self-direction, emotional stability, effective use of time (including leisure time), and cognitive skills.

2. Psychologists providing services to the provider shall have at least a Master's degree from an accredited program and appropriate experience or training.

S. Psychiatric Services

1. The services of a psychiatrist should be available for diagnosis, consultation and treatment of clients with mental health needs.

2. Psychiatric consultation should be available to other staff members working with clients in developing a program that promotes mental health and in helping all appropriate staff members understand and use mental health concepts in working with clients and their families.

3. Use should be made of mental health services and client guidance facilities in the community, whenever they are available, for clients and parents.

T. Social Work Services

1. Social services as part of an interdisciplinary spectrum of services shall be provided to the clients through the use of social work methods directed toward:

- a. maximizing the social functioning of each client;
- b. enhancing the coping capacity of the client's family; and
- c. asserting and safeguarding the human and civil rights of clients and their families and fostering the human dignity and personal worth of each client.

2. During the evaluation process, which may or may not lead to admission, social workers shall help the client and family to consider alternative services and make a responsible choice as to whether and when placement is indicated.

3. During the client's admission to and residence in the provider, or while the client is receiving services from the provider, social workers shall, as appropriate, provide liaison between the client, the provider, the family and the community in order to:

- a. assist staff in understanding the needs of the client and his/her family in relation to each other;
- b. assist staff in understanding social factors in the client's day-to-day behavior, including staff-client relationships;
- c. assist staff in preparing the client for changes in his/her living situation;
- d. help the family to develop constructive and personally meaningful ways to support the client's experience in the provider through counseling concerned with problems associated with changes in family structure and functioning and referral to specific services, as appropriate; and
- e. help the family to participate in planning for the client's return to the home or other community placement.

4. After the client leaves the provider, the provider's social workers should provide systematic follow-up to assure referral to appropriate community providers, when possible.

U. Medications

1. A provider shall ensure that no medication is given to any client except in accordance with the written order of a physician.

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

3. All orders for prescribed drugs shall terminate after a period not to exceed 90 days.

4. All orders for non-prescription drugs shall terminate after a period not to exceed one year.

5. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff or of any medication errors.

6. A provider supervising the self-administration of psychotropic medications shall have a written description of the use of psychotropic medications except when supervised directly by the prescribing certified clinical professional or his agent, i.e., clinical social worker.

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

8. A medication shall not be administered to any client for whom the medication has not been ordered.

9. Medications shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

10. All medications, prescription and non-prescription, should not be accessible to clients and should be administered by qualified persons according to state law.

#### V. Grievance Procedure for Clients

1. A provider should create a positive climate and opportunities for clients to make complaints without fear of retaliation.

2. The provider should make every effort to ensure that all clients and their legally responsible person are aware of and understand the grievance procedure.

W. Abuse and Neglect. A provider shall have comprehensive, written procedures concerning client abuse, including:

1. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, current reporting requirements and applicable laws;

2. a procedure ensuring immediate reporting of any suspected incident to the chief administrator or his/her designee and mandating an initial written summary on the incident to the chief administrator or his/her designee within 24 hours;

3. a procedure for ensuring that the client is protected from potential harassment during the investigation; and

4. a procedure for disciplining staff members who abuse or neglect clients.

#### X. Reports on Critical Incidents

1. A provider shall require social service staff to report and document deaths of clients, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients.

2. Such procedures shall ensure verbal and written reports to the chief administrator.

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

a. ensure immediate verbal reporting to the chief administrator or his/her designee and a preliminary written report within 24 hours of the incident;

b. ensure immediate notification of representatives of DSS and other appropriate authorities, according to state law;

c. ensure immediate, documented attempts to notify the legally responsible person of the client;

d. ensure immediate attempts to notify other involved agencies and parties, as appropriate; and,

e. ensure follow-up written reports to all appropriate persons and agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1571 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2746 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1623 (August 2009).

### **§6965. Direct Service Management**

NOTE: This Section has been moved from LAC 67:I.1965.

#### **A. Admission Policies**

1. A provider shall have a written description of admission policies and criteria which shall include the following information:

- a. the age and sex of clients in care;
- b. the needs, problems, situations or patterns best addressed by the provider's program;
- c. any other criterion for admission;
- d. criteria for discharge;
- e. any preplacement requirements on the client, the legally responsible person, DSS, or other involved agencies;
- f. procedures for ensuring that placement within the program is the least restrictive alternative appropriate to meet the client's needs.

2. The provider shall, when applicable, have policies and procedures governing self-admission. Such policies and procedures shall include procedures for notification, as appropriate, of the legally responsible person.

3. A provider shall not refuse admission to any client on the grounds of race or ethnic origin.

4. A provider shall not admit more clients into care than the number specified on the provider's license.

5. A provider shall not accept any client for placement whose needs cannot be adequately met by the provider's program.

6. A provider shall ensure that the client; the legally responsible person, when appropriate; and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

7. When such involvement of the legally responsible person is not possible or not desirable, the reasons for their exclusion shall be recorded in the admission study.

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

1. The provider shall accept a client into care only when a current comprehensive intake evaluation has been completed, including health and family history and medical, social, psychological and, as appropriate, developmental or vocational or educational assessment.

2. In emergency situations necessitating immediate placement into care, the provider shall:

- a. gather as much information as possible about the client to be admitted and the circumstances requiring placement;
- b. formalize this in an "emergency admission note" within two days of admission; and,
- c. proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

C. Clarification of Expectations to Client. The provider shall, consistent with the client's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the client referred for



placement with an explanation of the provider's criteria for successful participation in and completion of the program.

#### D. Placement Agreement

1. The provider shall ensure that a written placement agreement is completed. A copy of the placement agreement, signed by all parties involved in its formulation, shall be kept in client's record.

2. A provider shall not admit any client into care whose presence will be seriously damaging to the ongoing functioning of the provider or to clients already in care.

3. The placement agreement should be developed with the involvement of the client and the legally responsible person. The placement agreement shall include, by reference or attachment, at least the following:

- a. discussion of the client's and the family's expectations regarding family contact and involvement;
- b. nature and goals of care, including any specialized services to be provided;
- c. religious orientation and practices of the client;
- d. anticipated discharge date and aftercare plan;
- e. delineation of the respective roles and responsibilities of all agencies and persons involved with the client and his/her family;
- f. authorization to care for the client;
- g. authorization to obtain medical care for the client;
- h. arrangements regarding visits, vacation, mail, gifts and telephone calls;
- i. arrangements as to the nature and frequency of reports to and meetings involving the legally responsible person and referring agency;
- j. provision for notification of the legally responsible person in the event of unauthorized absence, illness, accident or any other significant event regarding the client.

4. The provider shall ensure that each client upon placement is checked for illness, fever, rashes, bruises and injury. The client shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the client's record.

5. The provider shall assign a staff member to orient the client and, where available, the family to life at the provider.

#### E. Discharge and After Care

1. Prior to planned discharge of a client, the provider's staff should formulate an aftercare plan discussing the supports and resources to be provided to the client and the legally responsible person.

a. Prior to discharge, the provider's staff should ensure that the client is aware of and understands his/her aftercare plan.

b. When a client is being placed in another program following discharge, representatives of the staff shall confer with representatives of that program prior to the client's discharge to share information concerning the client.

2. The provider shall have a written policy concerning unplanned discharge. This policy shall ensure that emergency discharges initiated by the provider take place only when the health and safety of a client or other clients might be endangered by the client's further placement at the agency.

a. The provider shall give immediate notice of unplanned discharge to the legally responsible person and shall promptly notify appropriate education authorities.

b. When arranging for placement following an emergency discharge, a provider shall consult with the receiving provider to ensure that the client is placed in a program that reasonably meets the client's needs, if possible.

c. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

3. Within 30 days of discharge of a client, a provider shall compile a written discharge summary to be included in the client's record. When the client is discharged to another agency, this summary should accompany the client. This summary should include:

- a. name and home address of the client and, when appropriate, the legally responsible person;
- b. name, address, telephone number of the provider;
- c. summary of services provided during care;
- d. summary of growth and accomplishments during care;
- e. assessed needs which remain to be met, and alternate service possibilities which might meet those needs; and
- f. statement of an aftercare plan and identification of who is responsible for follow-up services and aftercare.

#### F. Individual Service Planning

1. A provider shall ensure that a direct service staff who is an appropriately qualified professional is assigned to each client and given responsibility for and authority over:

- a. supervision of the implementation of the client's service plan;
- b. integration of the various aspects of the client's program;
- c. recording of the client's progress as measured by objective indicators;
- d. reviewing the client's service plan on a quarterly basis; and
- e. monitoring any extraordinary restriction of the client's freedom, including use of any form of restraint, any special restriction on a client's communication with others and any potentially harmful treatment or behavior management technique applied to the client.

#### 2. Service Plan

a. A provider shall, within 30 days of admitting a client, ensure that a comprehensive written psychological, social and, as appropriate, educational assessment of the client has been completed and, on the basis of this assessment, shall develop a comprehensive, time-limited, goal-oriented individual service plan addressing the needs identified by the assessment.

b. Unless it is clearly not feasible to do so, a provider shall ensure that the service plan and any subsequent revisions are explained to the client and, where appropriate, the legally responsible person in language understandable to these persons.

c. The social service staff shall review each plan at least annually and shall evaluate the degree to which the goals have been achieved.

d. The social service worker shall prepare quarterly status reports on the progress of the client relative to the goals and objectives of the service plan. These reports shall be prepared by designated staff and reviewed and approved.

e. A social service worker shall ensure that all persons working directly with the client are appropriately informed of the service plan.

#### 3. Education

a. A provider should ensure that each client has access to appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning.

b. All clients of school age must either be enrolled in a school system or a program approved by the Department of Education.

G. Arrangement of Clients into Groups. A provider should conscientiously consider the manner in which clients are arranged into groups within the provider, and document that this manner of arranging clients into groups effectively addresses the needs of clients. This statement should be in accordance with the following guidelines.

1. All clients must have privacy and a place to go for periods of relative quiet and inactivity.
2. All clients must have an opportunity to build relationships within small groups.
3. Clients must have an opportunity to form relationships with a consistent group of direct service staff.

#### H. Behavior Management

1. Clients should be given opportunities to learn gradually to assume responsibilities and make decisions for phases of daily living that they are able to carry out by themselves. They should have the assistance and guidance of workers whom they trust and respect, and with whom they have a positive relationship, while learning self-control and self-direction in a widening sphere of daily life.

a. Discipline is the educational process by which professionals help a client have the experiences that enable the client to learn to live in reasonable conformity with accepted standards of social behavior and to do so by progressively acquiring and applying self-control rather than relying on external pressures.

b. Every provider should develop policies and procedures to govern all disciplinary actions. Staff should be fully aware of these policies and their implications through staff development and written materials.

c. Each client should know the basic rules that include not hurting others, not destroying things and not disrupting ongoing activities.

d. Good discipline involves being clear and specific as to limits on behavior, showing the client what is permitted and what is not, and giving feedback on actions that are right or wrong.

e. Responsibility for discipline should be given to the worker who takes care of the clients and supervises their daily activities.

#### 2. Punishment

a. Punishment should be used only in situations where other means are ineffective and when clients can benefit from the experience of facing the consequences of unacceptable behavior not as an end in itself, but as a part of a learning process.

b. Punishment is one form of intervention by the staff in situations in which the client fails to behave as expected or required, or fails to maintain self-control. The staff should have clear reasons for choosing punishment. It is usually more effective to offer an intervention activity that can be positively enforced rather than an intervention that could prove to be a negative reinforcement to a client.

c. Timing or any punishment should be related to the occurrence of the offense and should not extend over so long a period that it loses meaning for the client.

d. Group punishment for misbehavior of one or more members is not desirable. It can have the negative long-range effect of embittering the clients who are unfairly punished and may disturb group cohesiveness. The group may become hostile to the individual client who may feel alone and rejected by them. The group may also direct its hostility to the staff member. Humiliating or degrading punishment, which undermines the client's respect (including ridicule, sarcasm, shaming, scolding or punishment in the presence of the group or another staff member), should be avoided.

i. Corporal punishment, including slapping, spanking, paddling, belting, hitting or forcing the client to march, stand or kneel rigidly in one spot, or causing any kind of physical discomfort, shall not be used other than when approved by the client's parent or guardian in writing. All state laws must be followed when approved corporal punishment is administered.

ii. Physical restraint of a client by a worker is at times necessary for the protection of the client or others.

3. Misbehavior

a. To be effective, worker intervention should be determined by an understanding of the particular client, the immediate situation, the particular living group of the client, the client's capacity at the time to learn from the experience and the treatment plan.

b. Some situations require purposeful non-interference, i.e., nothing should be done. Others call for active intervention, such as reasoning and discussion of the incident, changing the situation, disapproval, physical restraint or punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1575 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2750 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1628 (August 2009).

**§6966. Criminal Background Checks**

A. Criminal Background Checks—Current Owners as of June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 1587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the residential home. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

4. This check shall be obtained prior to the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or children of residents.

5. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

6. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

7. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance conducted through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or children of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or children of residents are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present.

8. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

9. Criminal background clearances are not transferable between owners.

**B. Criminal Background Checks—Prospective Owners effective June 1, 2020**

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators is required prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

2. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or children of residents.

3. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

4. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

5. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or children of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or children of residents are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present.

6. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

7. CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

8. Criminal background clearances are not transferable between owners.

#### C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the staff person has been convicted of a crime listed in R.S.15:587.1, the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the staff has been terminated or individual will no longer be

providing services. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

5. CBC shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

6. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access to residents and/or children of residents. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1 shall be hired by or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

3. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

4. No person who is convicted of or has pled *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall continue employment or to provide services after such conviction or *nolo contendere* plea.

5. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 1587.1, provider shall submit a request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the contractor has been convicted of a crime listed in R.S.15.587.1, the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the residents and/or children of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. A person shall not be deemed a contractor if he/she is a staff person of the facility.

5. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

6. Criminal background checks are not transferable between owners.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020

1. Contractors hired to perform work which involves contact with residents and/or children of residents, shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or children of residents.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or children of residents.

4. Criminal background checks (CBC) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

5. A person shall not be deemed a contractor if he/she is a staff person of the facility.

6. Criminal background checks are not transferable between owners.

G. Criminal Background Checks for Louisiana Department of Education (LDE) Staff effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with children/youth prior to the individual providing services to children/youth has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a child or children, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record clearance through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020 or after to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school



district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if all the following conditions are met:

- i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;
- ii. the provider has maintained a copy of the affidavit on file; and
- iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee;
- iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the \_\_\_\_\_ ex. (2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by R.S. 17:15 and R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or *nolo contendere* to, any of the criminal offenses set forth in R.S. 17:15 and/or R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the Director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 46:689 (May 2020), effective June 1, 2020.

### **§6967. Physical Environment**

NOTE: This Section has been moved from LAC 67:I.1967.

A. Accessibility. A provider's building, parking lots and facilities shall be accessible to and functional for clients, staff members and the public, as required by applicable federal and state laws and regulations.

#### **B. Exterior Space**

1. A provider shall ensure that all structures on the grounds of the facility accessible to clients are maintained in good repair and are free from any excessive hazard to health or safety.

2. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

a. Garbage and rubbish that is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be stored separate from the play area, and be located as to avoid being a nuisance to neighbors.

c. Fences shall be in good repair.

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

e. Playground equipment shall be so located, installed and maintained as to ensure the safety of clients.

3. A provider shall have access to outdoor recreational space and suitable recreational equipment.

#### C. Interior Space

1. Each living unit of a provider should contain a space for the free and informal use of clients. This space shall be constructed and equipped in a manner consistent with the programmatic goals of the provider.

2. A provider shall provide an appropriate variety of interior recreational spaces.

3. A provider shall ensure the immediate accessibility of appropriate first aid supplies in the living units.

#### 4. Dining Areas

a. A provider shall provide dining areas which permit clients, staff and, as appropriate, guests to eat together in small groups.

b. A provider shall provide dining areas which are clean, well-lighted, ventilated and attractively furnished.

#### 5. Sleeping Accommodations

a. A provider should ensure that each client has a safe and comfortable bedroom space appropriate to age, mental health and supervision requirements. Floor space should provide appropriate freedom of movement. In evaluating bedroom floor space, easy access to large adjoining areas should be considered.

b. A provider shall not use a room with a ceiling height of less than 7 feet as a bedroom space, except in a room with varying ceiling height in which the portions of the room where the ceiling is at least 7 feet allow a useable space.

c. A provider should not permit more than four clients to occupy a designated bedroom space, unless necessitated by supervision requirements.

d. No client over the age of five years shall occupy a bedroom with a member of the opposite sex, unless the persons occupying the bedroom are a married couple, or properly documented medical reasons require it.

e. A provider shall not use any room which does not have a window as a bedroom space.

f. Each client in care of a provider shall have his/her own bed. A client's bed shall be no shorter than the client's height and no less than 30 inches wide, and shall have a clean, comfortable, non-toxic, fire-retardant mattress.

g. A provider shall ensure that sheets, a pillow, a bedspread and blankets are provided for each client.

i. Enuretic clients shall have mattresses with moisture-resistant covers.

ii. Sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

h. A provider shall provide clients with solidly constructed beds. Cots or other portable beds are not to be used on a routine basis.

i. A provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.

j. A provider shall provide each client in care with his/her own dresser or other adequate storage space for private use, and designated space for hanging clothing in proximity to the bedroom occupied by the client.

k. Each client in care of a provider shall have his/her own designated area for rest and sleep.

l. The decoration of sleeping areas for clients shall allow some scope for the personal tastes and expressions of the clients.

#### 6. Bathrooms

a. A provider shall have an adequate number of washbasins with hot and cold water, flush toilets and bath or shower facilities with hot and cold water, according to client care needs.

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

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

iii. Tubs and showers shall have slip-proof surfaces.

b. A provider shall provide toilets and baths or showers which allow for individual privacy, unless clients in care require assistance.

c. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold running water. This water shall be potable.

d. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights, and other furnishings necessary to meet the clients' basic hygienic needs.

e. A provider shall ensure that bathrooms are equipped to facilitate maximum self-help by clients. Bathrooms shall be large enough to permit staff assistance of children if necessary.

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

#### 7. Kitchens

a. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and cleanup of all meals for all the clients and staff regularly served by such kitchen. All equipment shall be maintained in working order.

b. A provider shall not use disposable dinnerware at meals on a regular basis, unless the facility documents that such dinnerware is necessary to protect the health or safety of clients in care.

c. A provider shall ensure that all dishes, cups and glasses used by clients in care are free from chips, cracks or other defects.

8. Staff Quarters. A provider utilizing live-in staff shall provide adequate, separate living space with private bathroom for these staff.

#### 9. Administrative and Counseling Space

a. A provider shall provide a space that is distinct from the clients' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

b. A provider shall have a designated space to allow private discussions and counseling sessions between individual clients and staff.

#### 10. Furnishings

a. A provider shall have comfortable, customary furniture as appropriate for all living areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of these clients.

b. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the provider.

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

#### 11. Doors and Windows

a. A provider shall ensure that any designated bedroom in which the bedroom space is not equipped with a mechanical ventilation system is provided with windows that have an openable area at least 5 percent as large as the total floor area of the bedroom space.

b. A provider shall provide insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

c. A provider shall ensure that all closets used by clients, and bedrooms and bathrooms which have doors, are provided with doors that can be readily opened from both sides.

#### 12. Storage

a. A provider shall ensure that there are sufficient and appropriate storage facilities.

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

#### 13. Electrical Systems

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

b. A provider shall ensure that any room, corridor or stairway within a facility is sufficiently illuminated.

c. A provider shall provide adequate lighting of exterior areas to ensure the safety of clients and staff during the night.

#### 14. Heat

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

b. A provider shall maintain the spaces used by clients at reasonable temperatures.

c. A provider shall not use open flame heating equipment.

15. Water. A provider shall ensure that hot water accessible to clients is regulated to a temperature not in excess of 110 degrees F., unless a variance is granted.

#### 16. Finishes and Surfaces

a. A provider shall not utilize any excessively rough surface or finish where this surface or finish may present a safety hazard to clients.

b. A provider shall not have walls or ceilings surfaced with materials containing asbestos.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1577 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2753 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1630 (August 2009).

### **§6969. Emergency and Safety**

NOTE: This Section has been moved from LAC 67:I.1969.

#### A. Emergency and Safety Plan

1. A provider should have a plan for emergency and safety procedures.

2. The plan should provide for the evacuation of clients to safe or sheltered areas.

3. The plan should include provisions for training of staff and, as appropriate, clients in preventing, reporting and responding to fires and other emergencies.

4. The plan should provide means for an ongoing safety program including continuous inspection of the provider for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies.

B. Emergency Drills

1. A provider shall conduct emergency drills at least once every three months and at varying times of the day.

2. A provider shall make every effort to ensure that staff and clients recognize the nature and importance of such drills.

C. Access to Emergency Services

1. A provider shall have access to 24-hour telephone service.

2. The provider shall either have posted telephone numbers of emergency services, including fire department, police, medical services, poison control and ambulance, or be able to show evidence of an alternate means of immediate access to these services.

D. General Safety Practices

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

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

3. A provider should ensure that an appropriately equipped first-aid kit is available in the provider's building.

4. Every required exit, exit access and exit discharge in a provider's building shall be continuously maintained free of all obstructions or impediments to immediate use in the case of fire or other emergency.

5. A provider shall prohibit the use of candles in sleeping areas of the clients.

6. Power-driven equipment used by a provider shall be kept in safe and good repair. Such equipment shall be used by clients only under the direct supervision of a staff member and according to state law.

7. A provider shall have procedures to prevent insect and rodent infestation.

E. Transportation

1. The provider shall ensure that each client is provided with the transportation necessary for implementing the client's service plan.

2. The provider shall have means of transporting clients in case of emergency.

3. Any vehicle used in transporting clients in care of the provider, whether such vehicle is operated by a staff member of any other person acting on behalf of the provider, shall be properly licensed and inspected in accordance with state law.

4. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats in the vehicle.

5. All vehicles used for the transportation of clients shall be maintained in a safe condition and be in conformity with all applicable motor vehicle laws.

6. Identification of vehicles used to transport clients in care of a provider shall not be of such nature to embarrass or in any way produce notoriety for clients.

7. The provider shall ascertain the nature of any need or problem of a client which might cause difficulties during transportation, such as seizures, a tendency towards motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting clients in care.

8. The following additional arrangements are required in all vehicles except automobiles for a provider serving handicapped, non-ambulatory clients.

a. A ramp device to permit entry and exit of a client from the vehicle must be provided for all vehicles that are normally used to transport physically handicapped clients. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency.

b. Wheelchairs used in transit shall be securely fastened to the vehicle.

c. The arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

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