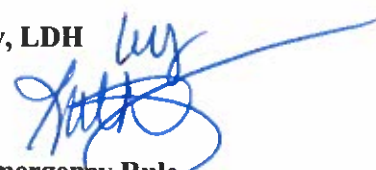




# State of Louisiana

Louisiana Department of Health  
Office of the Secretary

**To:** The Honorable John Bel Edwards, Governor, State of Louisiana (Via Email)  
The Honorable Jeff Landry, Attorney General, Louisiana Department of Justice (apa.submission@ag.louisiana.gov)  
The Honorable Patrick Page Cortez, President, Louisiana Senate (apa.senatepresident@legis.la.gov)  
The Honorable Clay Schexnayder, Speaker, Louisiana House of Representatives (apa.housespeaker@legis.la.gov)  
Catherine Brindley, Editor, *Louisiana Register* (reg.submission@la.gov)  
Senate Health and Welfare Committee (apa.s-h&w@legis.la.gov)  
House Health and Welfare Committee (apa.h-hw@legis.la.gov)

**From:** Dr. Courtney N. Phillips, Secretary, LDH 

**Date:** February 20, 2023

**Re:** Justification of Promulgation of Emergency Rule  
Hospital Licensing Standards (LAC 48.I.9305)

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## MEMORANDUM

In accordance with the Administrative Procedure Act (La. R.S. 49:950 *et seq.*) as amended, the Louisiana Department of Health is submitting the following emergency rule that amends Hospital Licensing Standards (LAC 48.I.9305).

Should you have any questions or require additional information regarding this matter, please do not hesitate to contact Cynthia York, at [cynthia.york@la.gov](mailto:cynthia.york@la.gov).

**Attachments:** Emergency Rule – Hospital Licensing Standards (LAC 48:I.9305)

**Cc:** Tasheka Dukes, HSS Assistant Secretary, LDH  
Tara LeBlanc, Medicaid Director, LDH  
Veronica Dent, Medicaid Manager, LDH  
Bethany Blackson, Legislative Liaison, LDH  
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

## **DECLARATION OF EMERGENCY**

### **Department of Health Bureau of Health Services Financing**

#### **Hospital Licensing Standards (LAC 48:I.9305)**

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.9305 as authorized by R.S. 36:254 and 40:2100-2115. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and to update provisions governing the clinical operation of hospitals.

This action is being taken to prevent imminent peril to the health, safety, and welfare of the public by ensuring access to hospital beds during healthcare staffing shortages. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2022-2023.

Effective February 20, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of hospitals in order to update the

process for granting waivers to building and construction guidelines or requirements and to update provisions governing the clinical operation of hospitals.

## **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

### **Chapter 93. Hospitals**

#### **Subchapter A. General Provisions**

#### **§9305. Licensing Process**

A. - M.2. ...

N. Plan Review. A letter to the Department of Health~~and Hospitals~~, Division of Engineering and Architectural Services, shall accompany the floor plans with a request for a review of the hospital plans. The letter shall include the types of services offered, number of licensed beds and licensed patient rooms, geographical location, and whether it is a relocation, renovation, and/or new construction. A copy of this letter is to ~~be~~ sent to the Hospital Program Manager.

1. - 2.b. ...

3. Waivers

a. The secretary of the department may, within his/her sole discretion, grant waivers to building and construction guidelines or requirements and to provisions of the licensing rules involving the clinical operation of the

hospital. The facility ~~must~~shall submit a waiver request in writing to the ~~Division of Engineering and Architectural Services~~. The facility ~~shall demonstrate how patient safety and the quality of care offered is not compromised by the waiver.~~ The facility ~~must demonstrate their ability to completely fulfill all other requirements of the service.~~ The Department will make a written determination of the request. Waivers are ~~not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver~~licensing section of the department on forms prescribed by the department.

b. ~~The secretary, in exercising his discretion, must at a minimum, require the applicant to comply with the edition of the building and construction guidelines which immediately preceded the most current edition of the Guidelines for Construction and Equipment of Hospital and Medical Facilities.~~In the waiver request, the facility shall demonstrate the following:

i. how patient health, safety, and welfare will not be compromised if such waiver is granted;

ii. how the quality of care offered will not be compromised if such waiver is granted; and

iii. the ability of the facility to completely fulfill all other requirements of the service, condition, or regulation.

c. The licensing section of the department shall have each waiver request reviewed by an internal waiver review committee. In conducting such internal waiver review, the following shall apply:

i. the waiver review committee may consult subject matter experts as necessary, including the Office of State Fire Marshal; and

ii. the waiver review committee may require the facility to submit risk assessments or other documentation to the department.

d. The director of the licensing section of the department shall submit the waiver review committee's recommendation on each waiver to the secretary, or the secretary's designee, for final determination.

e. The department shall issue a written decision of the waiver request to the facility. The granting of any waiver may be for a specific length of time.

f. The written decision of the waiver request is final. There is no right to an appeal of the decision of the waiver request.

g. If any waiver is granted, it is not transferrable in an ownership change or change of location.

h. Waivers are subject to review and revocation upon any change of circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised.

i. Any waivers granted by the department prior to January 15, 2023, shall remain in place, subject to any time limitations on such waivers; further, such waivers shall be subject to the following:

i. such waivers are subject to review or revocation upon any change in circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised; and

ii. such waivers are not transferrable in an ownership change or change of location.

O. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.  
40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November

2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips

Secretary

*all E 2/20/23*