

**NOTICE OF INTENT**

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

**Ambulatory Surgical Center  
Licensing Standards  
(LAC 48:I.Chapter 45)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 45 as authorized by R.S. 36:254 and R.S. 40:2131-2141. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 35 of the 2023 Regular Session of the Louisiana Legislature directed the Department of Health to require licensed healthcare facilities that provide any surgical procedure using heat-producing equipment to adopt and implement policies for a surgical smoke plume evacuation plan to mitigate and remove the surgical smoke plume. In compliance with Act 35, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of ambulatory surgical centers (ASCs) in order to require ASCs to adopt and implement policies for a surgical smoke plume evacuation plan for surgical procedures using heat-producing equipment.

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

## Chapter 45. Ambulatory Surgical Center

### Subchapter A. General Provisions

#### §4503. Definitions

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Surgical Smoke Plume-the byproduct of using heat-producing equipment on tissue during surgery.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1732 (September 2017), amended LR 49:

#### §4507. Initial Licensure Application Process

- A. ...
- B. The initial licensing application packet shall include:
  - 1. - 4. ...
  - 5. proof of each insurance coverage as follows:
    - a. - b. ...
    - c. professional liability insurance of at least ~~\$300,000~~\$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with

proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

i. if the ASC is not enrolled in the PCF, professional liability limits shall be \$1 million per occurrence/\$3 million per annual aggregate; and

B.5.d. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1734 (September 2017), amended LR 49:

**§4515. Renewal of License**

A. The ASC shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. - 5. ...

6. proof of each insurance coverage as follows:

a. - b. ...

c. professional liability insurance of at least ~~\$300,000~~\$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

A.6.c.i. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1736 (September 2017), amended LR 49:

**Subchapter F. Safety, Sanitization and Emergency Preparedness**

**§4575. General Provisions**

A. The ASC shall have policies and procedures, approved and implemented by the medical staff and governing body, that address provisions for:

1. sanitizing, disinfecting and sterilizing supplies, equipment and utensils;~~and~~

2. the safe use of cleaning supplies and solutions that are to be used and the directions for use, including:

a. ...

b. cleaning of the OR/procedure rooms between surgical and nonsurgical procedures~~;~~ and

3. surgical smoke plume evacuation to mitigate and remove surgical smoke plume during a surgical procedure that uses heat-producing equipment, including but not limited to electrosurgery and lasers.

B.- D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.  
36:254 and 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of  
Health, Bureau of Health Services Financing, LR 43:1752  
(September 2017), amended LR 49:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of  
the Louisiana Legislature, the impact of this proposed Rule on  
the family has been considered. It is anticipated that this  
proposed Rule will have no impact on family functioning,  
stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of  
the Louisiana Legislature, the poverty impact of this proposed  
Rule has been considered. It is anticipated that this proposed  
Rule will have no impact on child, individual, or family poverty  
in relation to individual or community asset development as  
described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the  
economic impact of this proposed Rule on small businesses has  
been considered. It is anticipated that this proposed Rule will  
have no impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

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 proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 29, 2023.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on September 11, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 28, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth

Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after September 11, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD

Secretary