

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards (LAC 48:I.Chapter 93 and 9443)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 93 and §9443 as authorized by R.S. 36:254, 40:2100-2115, and 29:760. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 540 of the 2022 Regular Session of the Louisiana Legislature established procedures for competent adult victims of sexually oriented criminal offenses to be provided with reproductions of written documentation resulting from their forensic medical exam in the possession of healthcare providers. 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. Act 367 of the 2023 Regular Session of the Louisiana Legislature directed the department to amend the licensing standards for certain inpatient healthcare facilities in order to establish minimum requirements for visitation, including during a declared public health emergency (PHE).

In compliance with Acts 540, 35, and 367, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of hospitals in order to permit competent adult victims of sexually oriented criminal offenses to receive written documentation resulting from their forensic medical exam in the possession of the hospital, to require hospitals to adopt and implement policies for a surgical smoke plume evacuation plan for surgical procedures using heat-producing equipment, and to update the requirements for visitation by members of the clergy during a declared PHE.

Title 48
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9303. Definitions

A. The following definitions of selected terminology are used in connection with Chapter 93.

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

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1475 (October 2019), LR 49:

Subchapter B. Visitation by Members of the Clergy during a Declared Public Health Emergency

§9336. Visitation by Members of the Clergy during a Declared Public Health Emergency

A. For purposes of this Section, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., [or current law.](#)

B. - D. ...

E. Subject to compliance with the requirements of this Section, each hospital shall allow members of the clergy to visit patients of the hospital during a declared PHE when a patient, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1.- 2. ...

3. a hospital's policy and procedure on clergy visitation~~shall~~, at a minimum, ~~require~~requires the following:

a. that the hospital shall give special consideration and priority for clergy visitation to patients receiving end-of-life care;

b. that a clergy member ~~will~~may be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable;

c. that a clergy member may not be allowed to visit a hospital patient if such clergy member has obvious signs or symptoms of an infectious agent or infectious disease, or if such clergy member tests positive for an infectious agent or infectious disease;

d. that a clergy member may not be allowed to visit a hospital patient if the clergy member refuses to comply with the provisions of the hospital's policy and procedure or refuses to comply with the hospital's reasonable time, place, and manner restrictions;

e. that a clergy member may be required to wear personal protective equipment as determined appropriate by the hospital, considering the patient's medical condition or clinical considerations. At the hospital's discretion, personal

protective equipment may be made available by the hospital to clergy members;

f. that a hospital's policy and procedure include provisions for compliance with a state health officer (SHO) order limiting visitation during a declared PHE; ~~and~~

g. that a ~~hospital's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders,~~ patient shall have the right to consensual, nonsexual physical contact such as hand holding or ~~guidelines regarding visitation in hospitals during a declared public health emergency issued by any federal government agency that are more restrictive than this~~ Section. hugging with members of the clergy; and

h. that a hospital's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in hospitals during a declared PHE issued by any federal government agency that are more restrictive than this Section.

4. A hospital shall submit a written copy of its visitation policies and procedures to the Health Standards Section of LDH at the initial licensure survey.

5. After licensure, the hospital shall make its visitation policies and procedures available for review by LDH at any time, upon request.

6. A hospital shall within 24 hours after establishing its visitation policies and procedures, make its policies and procedures easily accessible from the homepage of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 29:760.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:1580 (June 2022), amended LR 49:

Subchapter H. Medical Record Services

§9387. Organization and Staffing

A. - K. ...

L. ~~A hospital record may be kept~~Upon request of a competent adult victim of a sexually oriented criminal offense as defined in R.S. 15:622,~~any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical or similar form of data compilation which is approved for such use by current law,~~ the department. No magnetic, electronic, optical or similar method shall be approved unless it provides reasonable safeguards against erasure or alterationhospital that performed the forensic

medical exam shall provide a reproduction of any written documentation which is in the possession of the hospital resulting from the forensic medical exam of the victim.

1. The documentation shall be provided to the victim no later than 14 days after the hospital receives the request or the hospital completes the documentation, whichever is later.

2. The reproduction of written documentation provided for in this Subsection shall be made available at no cost to the victim and may only be released at the direction of the victim who is a competent adult. This release does not invalidate the victim's reasonable expectation of privacy nor does the record become a public record after the release to the victim.

M. A ~~hospital may at its discretion, cause any~~ hospital record ~~or part to~~ may be ~~microfilmed, or similarly reproduced, kept in order to accomplish efficient storage and preservation of hospital records~~ any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical or similar form of data compilation which is approved for such use by the department. No magnetic, electronic, optical or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

N. A hospital may at its discretion, cause any hospital record or part to be microfilmed, or similarly reproduced, in

order to accomplish efficient storage and preservation of hospital records.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2415 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter L. Surgical Services (Optional)

§9443. Surgery Suite and Equipment

A. - E. ...

F. ~~The emergency equipment in the surgical suite~~There shall ~~include~~ be policies and procedures for a surgical smoke plume evacuation plan to mitigate and remove surgical smoke plume during a surgical procedure that uses heat-producing equipment, including but not limited to electrosurgery and lasers.

~~1. a communication system that connects each operating room with a control center;~~

~~2. cardiac monitor;~~

~~3. resuscitator;~~

~~4. defibrillator;~~

~~5. aspirator; and~~

~~6. tracheotomy set.~~ 1. - 6. Repealed.

G. The emergency equipment in the surgical suite shall include:

1. a communication system that connects each operating room with a control center;

2. cardiac monitor;

3. resuscitator;

4. defibrillator;

5. aspirator (suction equipment); and

6. tracheotomy set.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2420 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, 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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by allowing victims of sexually oriented criminal offenses to receive

written documentation from their forensic medical exam and ensuring that the requirements for visitation by members of the clergy during a declared public health emergency comply with legislative mandates.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973, since competent adult victims of sexually oriented criminal offenses will not be charged for obtaining written documentation resulting from their forensic medical exam.

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, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170, but may result in an indeterminable impact on the direct or indirect cost to the provider related to the reproduction of written documentation from the forensic medical exam of competent adult victims of sexually oriented criminal offenses since the documents must be provided at no cost to the patient.

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