

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Hospital Licensing Standards Newborn Safety Devices (LAC 48:I.9573)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.9573 as authorized by R.S. 36:254 and 40:2100 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 421 of the 2021 Regular Session of the Louisiana Legislature authorized the Department of Health to regulate the installation of newborn safety devices (NSDs) located inside of hospital facilities which have 24-hour emergency departments. In compliance with Act 421, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing the installation and use of NSDs in hospitals.

### Title 48

#### PUBLIC HEALTH-GENERAL

##### Part I. General Administration

##### Subpart 3. Licensing and Administration

#### Chapter 93. Hospitals

#### Subchapter V. Newborn Safety Devices

#### §9573. General Provisions

A. In accordance with the Louisiana Children's Code (La. Ch. Code 1149 et seq.), a parent may leave an infant in a newborn safety device (NSD) that is physically located inside a facility which is licensed as a hospital in accordance with R.S. 40:2100 et seq., and has an emergency department that is staffed 24 hours per day.

B. Each NSD shall meet all of the following specifications:

1. voluntarily installed in the designated hospital;
2. installed in a location that ensures the anonymity of the relinquishing parent;
3. installed in a climate-controlled environment consistent with the internal temperature of the hospital;
4. installed by a licensed contractor in accordance with manufacturer's recommendations;
5. have an access door that locks automatically upon closure when an infant is in the device;
6. have a supporting frame that is anchored so as to align the bed portion of the NSD directly beneath the access door and prevent movement of the unit as a whole; and
7. feature a safe sleep environment which includes a firm, flat bassinet mattress and a sheet that fits snugly on and overlaps the mattress, and is free of pillows, bumpers, blankets and other bedding.

C. The hospital shall post appropriate signage approved by the Department of Children and Family Services at the site of the NSD that clearly identifies the NSD, and provides both written and pictorial instruction to the relinquishing parent to open the access door, place the infant inside the NSD and close the access door to engage the lock. The signage shall also clearly indicate all of the following:

1. the maximum age of the infant who may be relinquished in accordance with the Louisiana Children's Code;

2. that the infant must not have been previously subjected to abuse or neglect; and

3. that by placing an infant in the NSD, a parent is foregoing all parental responsibilities with response to the infant, and is giving consent for the state to take custody of the infant.

D. The hospital shall be responsible for:

1. the cost of the installation of the NSD;

2. installation of an adequate dual alarm system that shall be connected to the physical location of the NSD. The hospital shall ensure all of the following with respect to the alarm system:

a. the alarm system generates an audible alarm at a central location within the facility 60 seconds after the opening of the access door to the NSD;

b. the alarm system generates an automatic call to 911 if the alarm is activated and not turned off from within the hospital less than 60 seconds after the commencement of the initial alarm;

c. the alarm system is tested at least one time per week to ensure that it is in working order; and

d. the alarm system is visually checked at least two times per day to ensure that it is in working order.

3. obtaining Department of Health (LDH), Health Standards Section (HSS) approval prior to the use of the NSD; and

4. submission of written notification to the LDH, HSS of the hospital's intent to implement the use of the device.

E. Prior to use of the NSD, an onsite survey shall be conducted by the LDH, HSS.

F. The hospital shall ensure that the device is checked at least daily for debris and is cleaned and sanitized with a hospital-quality disinfectant at least weekly and after any infant relinquishment into the NSD.

G. The hospital shall maintain documentation of the testing of the alarm system and the cleaning and sanitation of the NSD.

H. The hospital shall install a cardholder adjacent to the NSD and shall keep the cardholder stocked with safe haven

informational cards and other safe haven informational materials produced in accordance with La. Ch. Code 1160 and required by the Department of Children and Family Services.

I. The hospital shall develop and implement written policies and procedures that include, but are not limited to, receiving an infant who has been relinquished into the NSD, the use of an adequate NSD alarm system, testing of the NSD alarm system, cleaning of the NSD, documentation, and training of staff responsible for implementing the policies and procedures of the NSD, in accordance with La. Ch. Code 1149 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

#### **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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:978.1 et seq.

#### **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, but will have an impact on hospital facilities that choose to have a newborn safety device installed as the hospital will be responsible for paying for the device as well as its installation and maintenance.

#### **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 January 31, 2022.

### **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 January 10, 2022. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 27, 2022 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 January 10, 2022. 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. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing

attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips

Secretary