

NOTICE OF INTENT

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

**Facility Need Review
Relocation of Nursing Facility Beds
(LAC 48:I.12529)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.12529 as authorized by R.S. 36:254 and 40:2116. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the facility need review (FNR) process in order to allow the department to approve a one-time partial relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified, and operational nursing facility within the same parish under certain conditions.

Title 48

**PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning**

Chapter 125. Facility Need Review

Subchapter D. Relocation of Nursing Facility Beds

§12529. General Provisions

A. A nursing facility's approved beds (Medicaid facility need review approvals) cannot be relocated to a different service area, subject to the exception in Section 12529.C below.

B. - B.6.g. ...

C. In addition to Subsection B, approved beds may be relocated in the same service district or same parish under the following conditions.

1. The department may approve a one-time partial relocation/transfer of a nursing facility's Medicaid facility need review (FNR) approvals to another licensed, certified, operational nursing facility in the same parish, provided that all of the following provisions are met:

a. The transferring nursing facility shall send a written request to the department's licensing section at least 30 days before the proposed transfer, for the department's review and approval.

b. The transferring nursing facility may relocate/transfer Medicaid FNR approvals to another nursing facility pursuant to Section 12529.C only once.

c. The transferring nursing facility and the receiving nursing facility shall be related companies which are under "common ownership."

i. For purposes of this Subsection, "common ownership" is defined as the same persons or entities owning at least 80 percent of both companies.

ii. For purposes of this Subsection, ownership includes, but is not limited to, shares in a corporation, membership in a limited liability company, or partnership interest in a partnership or limited liability partnership.

d. The transferring nursing facility may not relocate/transfer less than 10 Medicaid FNR approvals to another nursing facility.

e. A transferring nursing facility may not relocate/transfer more than 25 percent of its Medicaid FNR approvals to another facility.

f. The Medicaid FNR approvals relocated/transferred become Medicaid FNR approvals of the receiving nursing facility, and the transferring nursing facility relinquishes all rights in those Medicaid FNR approvals, but may retain licensure of the licensed nursing facility beds.

g. At the time of the relocation/transfer of the Medicaid FNR approvals, the receiving facility shall have more licensed nursing facility beds than it has Medicaid FNR approvals. The number of Medicaid FNR approvals transferred

shall not exceed the number of licensed-only beds (licensed nursing facility beds not having Medicaid FNR approval) at the receiving nursing facility; the receiving nursing facility is prohibited from receiving more Medicaid FNR approvals than can be utilized for the receiving nursing facility's current licensed bed capacity. Under no circumstances shall a receiving facility license additional beds in order to accommodate the relocated Medicaid FNR approvals. After the relocation, the receiving nursing facility shall have the same number of licensed beds as prior to the relocation.

h. All relocated Medicaid FNR approvals are subject to state and federal bed change guidelines and procedures.

i. The provisions of Section 12529.C pertaining to the transfer of Medicaid FNR approvals shall sunset in 24 months from the date of the promulgation of the final Rule implementing Section 12529.C and shall have no effect henceforth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004),

LR 32:845 (May 2006), LR 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1009 (May 2010), amended by the Department of Health, Bureau of Health Services Financing LR 46:

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. 49:965.2 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.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 29, 2020.

The department will conduct a public hearing at 9:30 a.m. on April 29, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. 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.

Stephen R. Russo, JD

Interim Secretary