



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

January 10, 2022

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee  
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

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

**Re:** Second Report LAC 48:I.Chapter 53 and 5415 – Crisis Receiving Centers – Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Crisis Receiving Centers – Licensing Standards, LAC 48:I.Chapter 53 and 5415.

A Notice of Intent on the proposed amendments was published in the November 20, 2021 issue of the *Louisiana Register* (LR 47:1762). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2021, Notice of Intent when it is published as a final rule in the February 20, 2022, issue of the *Louisiana Register*.

Please contact Cynthia York, at [cynthia.york@la.gov](mailto:cynthia.york@la.gov), if you have any questions or require additional information about this matter.

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

**NOTICE OF INTENT**  
**Department of Health**  
**Bureau of Health Services Financing**

Crisis Receiving Centers  
Licensing Standards  
(LAC 48:I.Chapter 53 and 5415)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 53 and adopt §5415 as authorized by R.S. 36:254 and R.S. 40:2180.11 et seq. 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 and the U.S. Department of Justice signed an agreement on June 6, 2018, which required the department to develop and implement a crisis service system. In compliance with this agreement, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing crisis receiving centers (CRCs) to require CRCs to have separate wings and areas for voluntary and involuntary individuals and to create a licensure option for a voluntary-only CRC to only admit or receive individuals who are present on a voluntary basis.

**Title 48**  
**PUBLIC HEALTH—GENERAL**  
**Part I. General Administration**

**Subpart 3. Licensing**

**Chapter 53. Level III Crisis Receiving Centers**

**Subchapter A. General Provisions**

**§5303. Definitions**

\* \* \*

*Community Mental Health Center*—a Medicare certified program as defined in 42 CFR §410.2. An entity that:

1. provides outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and clients of its mental health service area who have been discharged from inpatient treatment at a mental health facility;

2. provides 24-hour-a-day emergency care services;

3. provides day treatment or other partial hospitalization services, or psychosocial rehabilitation services;

4. provides screening for patients being considered for admission to state mental health facilities to determine the appropriateness of this admission;

5. meets applicable licensing or certification requirements for CMHCs in the state in which it is located; and

6. provides at least 40 percent of its services to individuals who are not eligible for benefits under title XVIII of the Social Security Act.

\* \* \*

*Department*—the Louisiana Department of Health (LDH).

\* \* \*

*Level III Crisis Receiving Center (or Center or CRC)*—an agency, business, institution, society, corporation, person or persons, or any other group, licensed by the LDH to provide crisis identification, intervention and stabilization services for people in behavioral crisis. CRCs receive, examine, triage, refer, or treat people in behavioral health crisis. A CRC shall have no more than:

1. 36 chairs for crisis stabilization/observation; and

2. 24 beds for short term stay (three to seven days).

a. - b. Repealed.

NOTE: Refer to physical environment Section of this Chapter for physical space requirements.

\* \* \*

*Mental Health Emergency Room Extension (MHERE)*—a mental health emergency room extension operating as a unit of a currently licensed hospital.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:102 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:472 (April 2021), LR 48:

**Subchapter B. Licensing**

**§5309. General Licensing Provisions**

A. All entities providing crisis receiving services shall be licensed by LDH. It shall be unlawful to operate as a CRC without a license issued by the department. LDH is the only licensing authority for CRCs in Louisiana.

B. ...

C. The following entities are exempt from CRC licensure under this Chapter, so long as they are providing CRC services to existing clients:

1. community mental health centers (CMHCs);

2. - 3. ...

4. psychiatric residential treatment facilities;

5. - 6. ...

7. home and community based services (HCBS) waiver agencies limited to center-based respite;

8. substance use/addictive disorder facilities;

9. mental health clinics as defined in §5603;

10. ...

11. MHEREs; and

12. federally qualified health care centers (FQHCs).

13. Repealed.

D. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:103 (January 2015), amended LR 48:

**Subchapter I. Physical Environment**

**§5397. Interior Space**

A. The CRC shall:

1. - 5. ...

6. maintain heating, ventilation and cooling systems in good order and safe condition to ensure a comfortable environment;

7. ensure that electric receptacles in client care areas are tamper-resistant or equipped with ground fault circuit interrupters; and

8. maintain separate wings or units for voluntary and involuntary individuals to include areas for admissions, sleeping, shower and toilet areas, and sally ports or other entry areas. Further, the CRC shall provide separate areas (which may be accomplished by providing areas to voluntary individuals at different times than to involuntary individuals) for dining, recreational, educational, vocational, health care, and passageways, for voluntary and involuntary individuals.

B. - P.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:121 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:475 (April 2021), LR 48:

**Chapter 54. Crisis Receiving Centers**

**Subchapter B. Voluntary-Only Crisis Receiving Center**

**§5415 Voluntary-Only Crisis Receiving Center**

A. Any entity, organization, or person applying to be licensed as a CRC has the option to be licensed as a voluntary-only crisis receiving center (VO-CRC), wherein the licensed entity shall only admit or receive individuals who present voluntarily to the facility.

B. Individuals presenting to a VO-CRC shall have the ability to come and go to the facility for services as the individual deems appropriate; individuals shall not be required to sign a formal voluntary admission form under R.S. 28:52 or successor statute.

C. A VO-CRC shall adhere to all the licensing requirements for CRCs, including Chapter 53 and Chapter 54 of this licensing Rule, with the following substitutions:

1. for §5367.C, a VO-CRC shall only receive individuals who present voluntarily to the unit/facility;

2. for §5367.F.1.b, a VO-CRC does not need to establish legal authority for the individual;

3. for §5397.A.8, the VO-CRC does not need to maintain separate spaces for involuntary and voluntary admissions or individuals, since the VO-CRC will only serve voluntary admissions or individuals; and

4. for §5397.G, a VO-CRC shall not have a seclusion room.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**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.

#### **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 December 30, 2021.

#### **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 December 10, 2021. If the criteria set forth in R.S.

49:953(A)(2)(a) are satisfied, the department will conduct a public hearing at 8:00 a.m. on December 29, 2021 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. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 10, 2021. 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

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Crisis Receiving Centers Licensing Standards**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$1,080 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections since the licensing fees, in the same amounts, will continue to be collected.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

In compliance with the June 6, 2018 agreement between the Department of Health and the U.S. Department of Justice, this proposed rule amends the provisions governing crisis receiving centers (CRCs) to require CRCs to have separate wings and areas for voluntary and involuntary individuals and to create a licensure option for a voluntary-only CRC to only admit or receive individuals who are present on a voluntary basis. This proposed rule will be beneficial to CRC patients, since it separates individuals based on their admission status. It is anticipated that implementation of this proposed Rule will not result in any costs to crisis receiving centers in FY 21-22, FY 22-23, and FY 23-24, but will be beneficial by ensuring that licensure requirements for facilities that only admit voluntary patients are clearly and accurately promulgated in the Louisiana Administrative Code.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Tasheka Dukes, RN  
Deputy Assistant Secretary  
2111#033

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

January 10, 2022

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee  
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

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

**Re:** Second Report LAC 48:I.Chapter 125 – Facility Need Review – Relocation of  
Nursing Facility Beds

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Facility Need Review – Relocation of Nursing Facility Beds, LAC 48:I.Chapter 125.

A Notice of Intent on the proposed amendments was published in the November 20, 2021 issue of the *Louisiana Register* (LR 47:1765). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2021, Notice of Intent when it is published as a final rule in the February 20, 2022, issue of the *Louisiana Register*.

Please contact Cynthia York, at [cynthia.york@la.gov](mailto:cynthia.york@la.gov), if you have any questions or require additional information about this matter.

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

## 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 amended the provisions governing the facility need review (FNR) process in order to allow the department to approve a temporary relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building (*Louisiana Register*, Volume 47, Number 9). The department now proposes to amend the provisions governing the FNR process in order to revise the timeframes for a temporary relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building.

#### Title 48

#### PUBLIC HEALTH-GENERAL

#### Part I. General Administration

#### Subpart 5. Health Planning

#### Chapter 125. Relocation of Nursing Beds

#### Subchapter D. Relocation of Nursing Facility Beds

#### §12529. General Provisions

##### A. - D. ...

1. The department may approve a one-time temporary relocation of a nursing facility's Medicaid FNR approvals to another licensed building that may be outside the existing FNR approved service area or parish, provided that all of the following provisions are met:

##### a. - e. ...

f. The temporary license shall expire 18 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period. One extension of the temporary license, not to exceed 6 months, may be granted by the department for good cause shown.

##### g. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 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 46:953 (July 2020), LR 47:1306 (September 2021), 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, 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 this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on December 30, 2021.

#### 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 December 10, 2021. 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 December 29, 2021 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 December 10, 2021. 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

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Facility Need Review  
Relocation of Nursing Facility Beds**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22, as the rule will not result in an increase in licensed nursing facility beds and will not result in an increase in Medicaid Facility Need Review Approvals. It is anticipated that \$540 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed Rule amends the provisions governing the facility need review (FNR) process in order to revise the timeframes for a temporary relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building. It is anticipated that implementation of this proposed rule will not result in costs to nursing facility providers and will have no impact on small businesses in FY 21-22, FY 22-23 and FY 23-24, as the rule will not result in an increase in licensed nursing facility beds nor result in an increase in Medicaid facility need review approvals.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule has no known effect on competition and employment.

Tasheka Dukes, RN  
Deputy Assistant Secretary  
2111#034

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

January 10, 2022

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee  
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

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

**Re:** Second Report Proposed Repeal of Obsolete Nursing Facility Rules

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Repeal of Obsolete Nursing Facility Rules.

A Notice of Intent on the proposed amendments was published in the November 20, 2021 issue of the *Louisiana Register* (LR 47:1766). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2021, Notice of Intent when it is published as a final rule in the February 20, 2022, issue of the *Louisiana Register*.

Please contact Cynthia York, at [cynthia.york@la.gov](mailto:cynthia.york@la.gov), if you have any questions or require additional information about this matter.

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

Register Date	Title	Register Volume, Number	Page Number
December 20, 1984	Physician Recertification for Recipients in SNFs and ICFs	Vol 10 No 12	1034
April 20, 1987	MAP - LTC Reimbursement Methodology - Wage Clarification	Vol 13 No 04	243
August 20, 1989	MAP - Pharmacist and Medical Records Practitioner Consultation for LTC Facilities	Vol 15 No 08	628
April 20, 1990	MAP - Temporary Management	Vol 16 No 04	318
March 20, 1994	Nursing Facility - Infectious Disease - Tuberculosis	Vol 20 No 03	306

This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to repeal the Rules governing Physician Recertification for Recipients in Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs) (*Louisiana Register*, Volume 10, Number 12), Medical Assistance Program (MAP) - Long Term Care (LTC) Reimbursement Methodology Wage Clarification (*Louisiana Register*, Volume 13, Number 4), Medical Assistance Program (MAP) Pharmacist and Medical Records Practitioner Consultation for Long Term Care Facilities (*Louisiana Register*, Volume 15, Number 8), Medical Assistance Program (MAP) - Temporary Management (*Louisiana Register*, Volume 16, Number 4) and Nursing Facility - Infectious Disease - Tuberculosis (*Louisiana Register*, Volume 20, Number 3). These Rules were promulgated prior to implementation of the *Louisiana Administrative Code* codification system, and it has been determined that the provisions are obsolete and should be repealed.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **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.

### **NOTICE OF INTENT**

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

#### **Nursing Facilities**

The Department of Health, Bureau of Health Services Financing proposes to repeal the following uncodified Rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

### **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 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 this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2021.

### **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 December 10, 2021. 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 December 29, 2021 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 December 10, 2021. 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

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 21-22. It is anticipated that \$270 will be collected in FY 21-22 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule repeals the following rules which were promulgated prior to implementation of the Louisiana Administrative Code codification system: 1) Physician Recertification for Recipients in Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs); 2) Medical Assistance Program (MAP) - Long Term Care (LTC) Reimbursement Methodology Wage Clarification; 3) Medical Assistance Program (MAP) Pharmacist and Medical Records Practitioner Consultation for Long Term Care (LTC) Facilities; 4) Medical Assistance Program (MAP) - Temporary Management; and 5) Nursing Facility - Infectious Disease - Tuberculosis. The Department has determined that the provisions of these rules are obsolete and should be repealed. It is anticipated that implementation of this proposed rule will not result in costs or benefits to Medicaid providers or small businesses in FY 21-22, FY 22-23 and FY 23-24, since the current provisions governing these programs and services are already accurately reflected in the Louisiana Administrative Code.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This Rule has no known effect on competition and employment.

Tasheka Dukes, RN  
Deputy Assistant Secretary  
2111#035

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

January 10, 2022

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee  
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

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

**Re:** Second Report Proposed Amendments to LAC 50:II.20003 – Nursing Facilities  
Reimbursement Methodology Cost Reports

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Nursing Facilities Reimbursement Methodology Cost Reports.

A Notice of Intent on the proposed amendments was published in the November 20, 2021 issue of the *Louisiana Register* (LR 47:1767). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2021, Notice of Intent when it is published as a final rule in the February 20, 2022, issue of the *Louisiana Register*.

Please contact Lindsey Nizzo, at [lindsey.nizzo@la.gov](mailto:lindsey.nizzo@la.gov), and Andrew Perilloux, at [andrew.perilloux@la.gov](mailto:andrew.perilloux@la.gov), if you have any questions or require additional information about this matter.

**Cc:** Patrick Gillies, Medicaid Director, LDH  
Kelly Zimmerman, Interim Deputy Program Medicaid Director, LDH  
Daniel Cocran, Medicaid Deputy Director, LDH  
Veronica Dent, Medicaid Program Manager, LDH  
Bethany Blackson, Legislative Liaison, LDH  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

## **NOTICE OF INTENT**

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

#### **Nursing Facilities Reimbursement Methodology Cost Reports (LAC 50:II.20003)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20003 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 reimbursement for nursing facilities in order to establish guidelines for submitting amended cost reports and to ensure that costs in the rate and floor component are classified appropriately.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part II. Nursing Facilities**

#### **Subpart 5. Reimbursement**

#### **Chapter 200. Reimbursement Methodology**

#### **§20003. Cost Reports [Formerly LAC 50:VII.1303]**

##### **A. - A.3. ...**

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program using the definition of allowable and non-allowable cost contained in the CMS Publication 15-1, Provider Reimbursement Manuals, with the following exceptions.

1. - 2. ...

3. **Amended Cost Reports.** The department will accept amended cost reports in electronic format for a period of 12 months following the end of the cost reporting period. Cost reports may not be amended after an audit or desk review has been initiated; however, the department maintains the right, at their discretion, to supersede this requirement and allow a cost report to be amended after the desk review or audit has been initiated. When an amended cost report is received by the department, it will notify the submitting facility if a desk review or audit covering the submitted cost report period has been initiated and that the amended cost report cannot be accepted. Amended cost reports should include a letter explaining the reason for the amendment, an amended certification statement with original signature, and the electronic format completed amended cost reports. Each amended cost report submitted should be clearly marked with "Amended" in the file name.

4. **Rate Warning.** While the Medicare regulations may allow more than one option for classifying costs, Medicaid will only recognize costs in a rate and floor component based on the case mix cross-walk shown on the case mix cross-walk tab of the Medicaid Excel cost report template. If a facility chooses to classify cost on their Medicare cost report in a manner that excludes that cost from their direct care or care-related rate component and floor, then the cost will forever be excluded from the direct care and care-related rate and floor, unless adjusted at audit or desk review.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2263 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:541 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:526 (March 2017), LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **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, 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 Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2021.

#### **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 December 10, 2021. 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 December 29, 2021 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 December 10, 2021. 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

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Reimbursement Methodology—Cost Report**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 21-22. It is anticipated that \$324 will be collected in FY 21-22 for the

federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing cost reports for nursing facilities in order to establish guidelines for submitting amended cost reports and to ensure that the appropriate cross-walk is used to calculate the provider's rate and floor calculations. It is anticipated that implementation of this proposed rule will not result in costs to nursing facilities for FY 21-22, FY 22-23, and FY 23-24, but will be beneficial by ensuring that the requirements for cost reports are clearly and accurately promulgated in the Louisiana Administrative Code.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Patrick Gillies  
Medicaid Executive Director  
2111#036

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office