



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 10, 2021

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

A handwritten signature in cursive script, appearing to read "Courtney N. Phillips".

Re: Second Report LAC 48:I.Chapter 49 – Case Management 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 Rule for Case Management Licensing Standards, LAC 48:I.Chapter 49.

A Notice of Intent on the proposed amendments was published in the June 20, 2021 issue of the *Louisiana Register* (LR 47:769). Written comments were received; however, no requests 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. After thoroughly reviewing and giving due consideration to the comments received, 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 June 20, 2021, Notice of Intent when it is published as a final rule in the September 20, 2021, issue of the *Louisiana Register*.

Please contact Cynthia York, Cynthia.York@la.gov, if you have any questions or require additional information about this matter.

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

Public Comments

Interested persons may submit written comments on the proposed changes (SG21198NI) until 4:30 p.m., July 12, 2021, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: ~~START Saving Program~~

~~I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)~~

~~The proposed rule changes will not result in any costs or savings to state or local governmental units. The proposed rule changes codify the actual earnings realized on Student Tuition Assistance and Revenue Trust (START) Saving Program accounts that are invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements for the 2020 calendar year as required by LSA-R.S. 17:3093.D(1)(f).~~

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

~~There is no impact on state or local governmental revenues.~~

~~III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)~~

~~The proposed rule changes adopt actual interest rates for deposits and earnings enhancements for the year ending December 31, 2020. As determined by the State Treasurer, the interest rate earned for the 2020 calendar year by the Louisiana Education Tuition and Savings Fund was 1.4%, and by the Savings Enhancements Fund was 1.97%. These interest rates are less than the actual rates realized in the previous year and are the property of the account owners.~~

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

~~The proposed rule will not affect competition and employment.~~

Robyn Rhea Lively
Senior Attorney
2106#012

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Case Management
Licensing Standards
(LAC 48:I.Chapter 49)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 49 as authorized by R.S. 36:254. 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 licensing of case management providers in order to amend

the training and education requirements to address current staff shortages and ensure sufficient access to services.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 49. Case Management

§4901. Personnel Standards

A. Staff Qualifications

1. Case managers hired or promoted between August 20, 1994 and September 30, 2021, must meet the following criteria for education and experience:

a. - e. ...

2. Case managers hired or promoted on or after October 1, 2021, shall meet the following criteria for education and experience:

a. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education; or

b. a currently licensed registered nurse; or

c. a bachelor's or master's degree in a human services related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation; or

d. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in accordance with §4901.A.2.c.

e. Repealed.

3. Case management supervisors hired or promoted between August 20, 1994 and September 30, 2021, must meet the following qualifications for education and experience:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education with certification in special education, occupational therapy, speech or physical therapy from an accredited institution; and two years of paid post-degree experience in a human services related field providing direct consumer services or case management; and one year of this experience must be in providing direct consumer services to the targeted population to be served; or

b. a bachelor's degree in social work from a social work program accredited by the Council on Social Work Education; and three years of paid post-degree experience in a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services to the targeted population to be served; or

c. a licensed registered nurse; and three years of paid post-licensure experience as a registered nurse in public health or a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services or case management to the target population to be served; or

d. a bachelor's degree in a human services field including but not limited to psychology, education, rehabilitation counseling, or counseling from an accredited institution; and four years of paid post-degree experience in a human services related field providing direct consumer

services or case management. Two years of this experience must be in providing direct consumer services to the targeted population to be served.

4. Case management supervisors hired or promoted on or after October 1, 2021, shall meet the following qualifications for education and experience:

a. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education, and two years of paid post degree experience in providing Support Coordination services; or

b. a currently licensed registered nurse with at least two years of paid nursing experience; or

c. a bachelor's or master's degree in a human services related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation, and two years of paid post degree experience in providing support coordination services; or

d. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in §4901.A.4.c, and two years of paid post degree experience in providing support coordination services.

B. - B.5. ...

6. A case manager must complete a minimum of 20 hours of training per calendar year. For new employees, the orientation training cannot be counted toward the 20 hour minimum annual training requirement. The 16 hours of training for new case managers required in the first 90 days of employment may be counted toward the 20-hour minimum annual training requirement. Appropriate updates of topics covered in orientation and training for a new case manager must be included in the required 20 hours of annual training. The following is a list of suggested additional topics for annual training:

a. - z. ...

7. A case management supervisor must satisfactorily complete 20 hours of training per year. A new supervisor must satisfactorily complete a minimum of 16 hours on all of the following topics prior to assuming case management supervisory responsibilities:

B.7.a. - C.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 20:885 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§4903. Caseload Size Standards

A. ...

B. Each case management supervisor may only have a maximum of eight full-time case managers or a combination of full-time case managers and other human service staff under their direct supervision.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 20:887 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§4951. Records—Administrative and Consumer

A. - C. ...

D. A provider must have a written record for each consumer which must minimally include:

1. identifying data recorded on a standardized form including the following:

a. - l. ...

m. names, addresses, and phone numbers of other persons or providers involved with the consumer's service plan. This shall include the consumer's qualified, licensed physician or other licensed health care practitioner who is acting within the scope of practice of his/her respective licensing board(s) and/or certification(s);

D.1.n. - L. ...

M. The records are maintained until audited and all audit questions answered or for six years from the time of payment, whichever is longer.

N. - T. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 20:891 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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 as it will ensure continued access to case management services.

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 as it will ensure continued access to case management services.

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 a positive impact on small businesses, as described in R.S. 49:965.2 et seq. because it reduces the barriers to hiring staff.

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 a positive impact on the staffing level and

qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but will have a positive impact on the provider's ability to provide the same level of service as described in HCR 170 because it reduces the barriers to hiring staff.

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 July 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 July 12, 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 July 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 July 12, 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: Case Management 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 20-21. It is anticipated that \$1,080 will be expended in FY 20-21 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, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amends the provisions governing the licensing of case management providers in order to amend the

training and education requirements to address current staff shortages and ensure sufficient access to services. This Rule will be beneficial to recipients as it will ensure continued access to needed case management services. Providers and small businesses will benefit from implementation of this proposed Rule since the change in education and training requirements for case managers and supervisors reduces hiring barriers. It is anticipated that implementation of this proposed Rule will not result in costs to case management providers in FY 20-21, FY 21-22, and FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and a positive effect on employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#034

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospice Licensing Standards (LAC 48:I.8201 and 8217)

~~The Department of Health, Bureau of Health Services Standards proposes to amend LAC 48:I.8201 and §8217 as authorized by R.S. 36:254 and R.S. 40:2181-2192. 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 hospice licensing to include the definition of a public health emergency (PHE) and add exemptions relating to the qualifications required for certain nursing staff hired during a PHE.~~

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensure of Hospice Agencies

Subchapter A. General Provisions

§8201. Definitions

~~A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~***~~

~~Public Health Emergency (PHE) a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.~~

~~***~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.~~

~~HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2257 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:588 (March 2018), LR 46:344 (March 2020), LR 47:~~

SUMMARY OF WRITTEN COMMENTS

Proposed Rule: Case Management – Licensing Standards
Public Hearing Date: N/A
Docket No. : N/A
Conducted By: N/A

[illegible]

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

July 26, 2021

Antoinette Clark, Owner/CEO
Shoulders of Strength, Inc.
2900 Cameron St.
Monroe, LA 71201

Dear Ms. Clark:

RE: Notice of Intent for Case Management Licensing Standards

This letter is in response to your correspondence regarding the Notice of Intent for Case Management Licensing Standards which was published in the June 20, 2021 edition of the *Louisiana Register*.

I would like to thank you for taking the time to submit comments relative to this proposed Rule which amends the licensing provisions governing the training and education requirements of case management providers in order to address current staff shortages and ensure sufficient access to services. After thoroughly reviewing and giving due consideration to your concerns, the decision has been made to continue with the provisions of the June 20, 2021 Notice of Intent as published in the *Louisiana Register*.

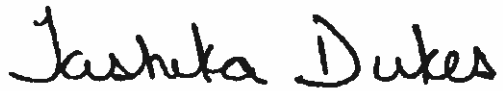
We appreciate your willingness to provide comments regarding these amendments to the licensing provisions for providers of case management services and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards,

Antoinette Clark Response
July 26, 2021
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you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

A handwritten signature in black ink that reads "Tasheka Dukes". The signature is written in a cursive, flowing style.

Tasheka Dukes, RN
Deputy Assistant Secretary
LDH Health Standards Section

TD/KHB/VYD

c: Kelly Zimmerman
Kimberly Humbles



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 10, 2021

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 Rule for 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 January 20, 2021 issue of the *Louisiana Register* (LR 47:143). Written comments were received, which the Department reviewed and determined substantive revisions were needed to the published Notice of Intent. An Item of Potpourri was published in the May 20, 2021 issue of the *Louisiana Register* (LR 47:691) announcing a public hearing on the substantive revisions. A public hearing was held on June 24, 2021 via Zoom with 14 attendees, however, no oral testimony was given at the hearing.

Unless otherwise directed, the Department anticipates adopting the January 20, 2021, Notice of Intent, with the substantive changes of the Potpourri included, when it is published as a final rule in the September 20, 2021, issue of the *Louisiana Register*.

Please contact Cynthia York, Cynthia.York@la.gov, if you have any questions or require additional information about this matter.

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

**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 20-21. It is anticipated that \$2,700 will be expended in FY 20-21 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, SMALL BUSINESSES OR
NONGOVERNMENTAL GROUPS (Summary)~~**

~~This proposed rule amends the provisions governing licensing standards for crisis receiving centers (CRCs) in order to clarify the language in the administrative Rule and add provisions for emergency preparedness and infection control, optional participation in the Patient Compensation Fund, physical environment requirements, and inactivation of the CRC license due to a non-declared emergency or disaster. This Rule is anticipated to have no impact on small businesses as these provisions are currently in practice for these providers and are consistent with other licensing rules. It is anticipated that implementation of this proposed Rule will not result in any costs to crisis receiving centers in FY 20-21, FY 21-22, and FY 22-23, but will be beneficial by ensuring that the provisions are clearly promulgated in the Louisiana Administrative Code.~~

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

~~This rule has no known effect on competition and employment.~~

Cecile Castello, BSN, RN
Deputy Assistant Secretary
2101#047

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

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 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. 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 exceptions in Section 12529.C and Section 12529.D below.

B. - C.1.i. ...

D. In addition to Paragraphs B and C of this Section, Medicaid FNR approvals of an existing licensed and certified nursing facility that is awaiting the completion of a replacement nursing facility building, may be temporarily relocated to a licensed building that may be outside of the service area or parish of the existing FNR approved service area or parish under the following conditions.

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. The relocating nursing facility shall send a written request to the department's Health Standards Section at least 30 days before the proposed temporary relocation outside the existing FNR approved service area or parish, for the department's review and approval. This request shall include all good cause grounds for the temporary relocation of the Medicaid FNR approvals. The department will determine if approval of the temporary relocation will be granted.

b. The nursing facility shall not temporarily relocate to a licensed building located in a service area or parish that is greater than 100 miles from the existing licensed service area or parish of the nursing facility.

c. The temporarily relocating nursing facility shall maintain the same number of licensed and Medicaid FNR approved beds as prior to the relocation.

d. All temporarily relocated Medicaid FNR approvals of the licensed and certified nursing facility are subject to compliance with all state and federal licensure/certification guidelines and procedures.

e. The temporary location shall be in compliance with all licensing and certification standards for nursing facilities, and receive a temporary nursing facility license issued by the department.

f. The temporary license shall expire 6 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period.

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:

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, 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 this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on March 1, 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 February 9, 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 February 25, 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 February 9, 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 20-21, 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 \$648 will be expended in FY 20-21 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, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends 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. 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 20-21, FY 21-22 and FY 22-23, 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.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello, BSN, RN
Deputy Assistant Secretary
2012#048

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nursing Facilities Supplemental Payments Non-State Governmental Organizations (LAC 50:II.20029)

~~The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20029 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 the reimbursement methodology for nursing facilities in order to remove a facility that is no longer owned or operated by a~~

Potpourri

POTPOURRI

Department of Health Bureau of Health Services Financing

Public Hearing—Substantive Changes to Proposed Rule Facility Need Review—Relocation of Nursing Facility Beds (LAC 48:I.12529)

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 published a Notice of Intent in the January 20, 2021 edition of the *Louisiana Register* (LR 47:143-144) to amend LAC 48:I.12529 as authorized by R.S. 36:254 and 40:2116. This Notice of Intent proposed to amend 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. As a result of comments received in response to the January 20, 2021 Notice of Intent, the department determined that additional non-technical revisions were necessary to the provisions of §12529 of the proposed Rule.

Taken together, all of these revisions will closely align the proposed Rule with the department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice

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. - 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 6 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 90 days, may be granted by the department for good cause shown.

g. During the period of temporary licensure, the nursing facility shall not accept any new admissions to the facility.

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:

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 these substantive amendments to the proposed Rule. A public hearing on these substantive changes to the proposed Rule is will be scheduled for Thursday, June 24, 2021 at 9:30 a.m. via Zoom. using the following URL link: <https://us02web.zoom.us/j/87845586319>. Alternatively, you may join by dialing 602-333-0032 and entering conference code 768964. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., June 29, 2021.

Dr. Courtney N. Phillips
Secretary

2105#046

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Anderson-Prichard Oil Corporation	Wildcat-So La New Orleans Dis	L	Annie Herrick et al	001	75009
Davis Petroleum Corp.	Lac Blanc	L	Sd ra sua; SL 18090	001-Alt	231529
Davis Petroleum Corp.	Lac Blanc	L	Sd ra sua; SL 18090	002	232451
Davis Petroleum Corp.	Cameron Canal	L	13000 ra sua; Fremaux Co et al	001	232630
Davis Petroleum Corp.	Cameron Canal	L	Sub All RB sua;Oustalet Farm	001	233269

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

June 24, 2021

9:30 a.m.

**RE: Public Hearing—Substantive Changes to Proposed Rule
Facility Need Review
Relocation of Nursing Facility Beds
Docket # 06242021-01
Department of Health
State of Louisiana**

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on June 24, 2021 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Yolanda M. Ellis

Medicaid Policy and Compliance
Section

06/24/21
Date

**LOUISIANA DEPARTMENT OF HEALTH
BUREAU OF HEALTH SERVICES FINANCING
ZOOM PUBLIC HEARING ATTENDEES 06/24/2021 @ 9:30 AM**

	NAME	REPRESENTING
1.	Veronica Dent	Louisiana Department of Health
2.	Yolanda Ellis	Louisiana Department of Health
3.	Selena Sims	Louisiana Department of Health
4.	Theresa Bryan	Louisiana Department of Health
5.	Robert Andrepont	Louisiana Department of Health
6.	Christina Robertson	Louisiana Department of Health
7.	Karen Barnes	Louisiana Department of Health
8.	Tasheka Dukes	Louisiana Department of Health
9.	Cullen Brewer	Louisiana Department of Health
10.	Cynthia York	Louisiana Department of Health
11.	Cecile Castello	Louisiana Department of Health
12.	Allen Enger	Louisiana Department of Health
13.	Vinson Knight	St. Luke's Living Center
14.	Heather McGowen	St. Margaret's Foundation
15.		
16.		
17.		
18.		
19.		

SUMMARY OF WRITTEN COMMENTS

Proposed Rule: Facility Need Review – Relocation of Nursing Facility Beds

Public Hearing Date: January 12, 2021
June 24, 2021 (Substantive Changes Public Hearing)

Docket No. : 06242021-01 (June 2021)

Conducted By: Department of Health, Bureau of Health Services Financing Staff

[illegible]

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

July 26, 2021

Mark Berger
Executive Director
Louisiana Nursing Home Association
7844 Office Park Blvd.
Baton Rouge, LA 70809

Dear Mr. Berger:

RE: Notice of Intent for Facility Need Review – Relocation of Nursing Facility Beds

This letter is in response to your correspondence regarding the Notice of Intent for Facility Need Review – Relocation of Nursing Facility Beds which was published in the January 20, 2021 edition of the *Louisiana Register*.

This Notice of Intent proposes to amend 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.

As a result of comments received in response to the January 20, 2021 Notice of Intent, the department determined that additional, non-technical revisions were necessary to the provisions of §12529 of the proposed Rule. The department published a Potpourri announcing these substantive changes in the May 20, 2021 edition of the *Louisiana Register* and subsequently held a public hearing on June 24, 2021.

After further consideration of the comments received and communication with stakeholders, the decision has been made to proceed with the revisions proposed in the May 20, 2021 Potpourri and to publish a Notice of Intent to further amend the FNR provisions in a future edition of the *Louisiana Register*.

Mark Berger Response
July 26, 2021
Page 2

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

A handwritten signature in black ink that reads "Tasheka Dukes". The signature is written in a cursive, flowing style.

Tasheka Dukes, RN
Deputy Assistant Secretary
LDH Health Standards Section

TD/KHB/VYD

c: Kelly Zimmerman
Kimberly Humbles

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

July 26, 2021

Vinson J. Knight
Lawrence, Knight & Curlin
111 Veterans Memorial Blvd., Suite 701
Metairie, Louisiana 70005

Dear Mr. Knight:

RE: Notice of Intent for Facility Need Review – Relocation of Nursing Facility Beds

This letter is in response to your correspondence regarding the Notice of Intent for Facility Need Review – Relocation of Nursing Facility Beds which was published in the January 20, 2021 edition of the *Louisiana Register*.

This Notice of Intent proposes to amend 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.

As a result of comments received in response to the January 20, 2021 Notice of Intent, the department determined that additional, non-technical revisions were necessary to the provisions of §12529 of the proposed Rule. The department published a Potpourri announcing these substantive changes in the May 20, 2021 edition of the *Louisiana Register* and subsequently held a public hearing on June 24, 2021.

After further consideration of the comments received and communication with stakeholders, the decision has been made to proceed with the revisions proposed in the May 20, 2021 Potpourri and to publish a Notice of Intent to further amend the FNR provisions in a future edition of the *Louisiana Register*.

Vincent J. Knight Response
July 26, 2021
Page 2

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

A handwritten signature in black ink that reads "Tasheka Dukes". The signature is written in a cursive, flowing style.

Tasheka Dukes, RN
Deputy Assistant Secretary
LDH Health Standards Section

TD/KHB/VYD

c: Kelly Zimmerman
Kimberly Humbles



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 10, 2021

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.8201 and 8217- Hospice 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 Hospice Licensing Standards, LAC 48:I.8201 and 8217.

A Notice of Intent on the proposed amendments was published in the June 20, 2021 issue of the *Louisiana Register* (LR 47:771). 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 June 20, 2021, Notice of Intent when it is published as a final rule in the September 20, 2021, issue of the *Louisiana Register*.

Please contact Cynthia York, Cynthia.York@la.gov, if you have any questions or require additional information about this matter.

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

qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but will have a positive impact on the provider's ability to provide the same level of service as described in HCR 170 because it reduces the barriers to hiring staff.

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 July 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 July 12, 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 July 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 July 12, 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 (eater 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: Case Management 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 20-21. It is anticipated that \$1,080 will be expended in FY 20-21 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, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)~~

~~The proposed rule amends the provisions governing the licensing of case management providers in order to amend the~~

~~training and education requirements to address current staff shortages and ensure sufficient access to services. This Rule will be beneficial to recipients as it will ensure continued access to needed case management services. Providers and small businesses will benefit from implementation of this proposed Rule since the change in education and training requirements for case managers and supervisors reduces hiring barriers. It is anticipated that implementation of this proposed Rule will not result in costs to case management providers in FY 20-21, FY 21-22, and FY 22-23.~~

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

~~This rule has no known effect on competition and a positive effect on employment.~~

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#034

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospice Licensing Standards (LAC 48:I.8201 and 8217)

The Department of Health, Bureau of Health Services Standards proposes to amend LAC 48:I.8201 and §8217 as authorized by R.S. 36:254 and R.S. 40:2181-2192. 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 hospice licensing to include the definition of a public health emergency (PHE) and add exemptions relating to the qualifications required for certain nursing staff hired during a PHE.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensure of Hospice Agencies

Subchapter A. General Provisions

§8201. Definitions

A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

* * *

Public Health Emergency (PHE)-a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2257 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:588 (March 2018), LR 46:344 (March 2020), LR 47:

Subchapter B. Organization and Staffing
§8217. Personnel Qualifications/Responsibilities

A. - G.7. ...

H. Licensed Practical Nurse (LPN). The LPN shall work under the direct supervision of a registered nurse (RN) and perform skilled nursing services as delegated by the RN. The role of the LPN in hospice is limited to stable hospice patients.

1. Qualifications. An LPN shall be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions:

a. with at least two years of full time experience as an LPN;

EXCEPTION: The requirement in 1.a is waived for any LPN that becomes employed by a hospice provider during a declared public health emergency (PHE) which extends statewide and continues for more than 90 consecutive days. Any LPN hired under this exception may continue to be employed by the same hospice provider after the PHE is over.

b. - c. ...

2. Responsibilities. The LPN shall perform skilled nursing services under the supervision of an RN, in a manner consistent with standards of practice, including but not limited to, such duties as follows:

a. observe, record, and report to the RN or director of nurses on the general physical and mental conditions of the patient;

b. ...

c. assist the physician and/or RN in performing specialized procedures;

d. - i. ...

3. Restrictions. An LPN shall not:

a. - f. ...

g. function as a supervisor of the nursing practice of any RN; or

H.3.h. - N.2.c. ...

O. Registered Nurse (RN). The hospice shall designate an RN to coordinate the implementation of the POC for each patient.

1. Qualifications. A licensed RN shall be currently licensed to practice in the state of Louisiana with no restrictions:

a. have at least two years of full-time experience as an RN. However, two years of full-time clinical experience in hospice care as an LPN may be substituted for the required two years of experience as an RN; and

EXCEPTION: The requirement in 1.a is waived for any RN that becomes employed by a hospice provider during a declared PHE which extends statewide and continues for more than 90 consecutive days. Any RN hired under this exception may continue to be employed by the same hospice provider after the PHE is over.

b. be an employee of the hospice. If the RN is employed by more than one agency, he/she must inform all employers and coordinate duties to assure quality service provision.

O.2. - R.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2262 (December 1998), LR 25:2409 (December 1999), LR 29:2801 (December 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 44:594 (March 2018), LR 47:

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 as it will ensure that sufficient hospice staff are available to provide services during public health emergencies.

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 because it will ensure that sufficient hospice staff are available to provide services during public health emergencies.

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 a positive impact on small businesses, as described in R.S. 49:965.2 et seq. because it reduces the barriers to hiring during a public health emergency.

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 a positive impact on the staffing level and qualifications required to provide the same level of service during a public health emergency, no direct or indirect cost to the provider to provide the same level of service, but will have a positive impact on the provider's ability to provide the same level of service as described in HCR 170 because it reduces the barriers to hiring during a public health emergency.

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 July 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 July 12, 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

July 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 July 12, 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: Hospice 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 20-21. It is anticipated that \$864 will be expended in FY 20-21 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, SMALL BUSINESS OR
NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the provisions governing hospice licensing to include the definition of a public health emergency (PHE) and add exemptions relating to the qualifications required for certain nursing staff hired during a PHE. This Rule will be beneficial to recipients as it will ensure continued access to hospice services during a PHE. Providers and small businesses will benefit from implementation of this proposed Rule since the change in qualifications will alleviate potential nursing staff shortages during PHEs. It is anticipated that implementation of this proposed Rule will not result in costs to hospice providers in FY 20-21, FY 21-22, or FY 22-23.

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

This rule has no known effect on competition but may improve employment by removing barriers to hiring during public health emergencies.

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#035

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Intermediate Care Facilities
for Persons with Developmental Disabilities
Licensing Standards
(LAC 48:I.8519 and 8591)**

~~The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.8519 and §8591 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.~~

~~Act 27 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health to promulgate rules that provide minimum standards in relation to the requirements for licensed intermediate care facilities for persons with developmental disabilities (ICF/DDs) to allow visitation of immediate family members or other designated persons during a public health emergency (PHE) declared in accordance with R.S. 29:766 or to address Coronavirus Disease 2019 (COVID-19). In compliance with Act 27, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of ICF/DDs in order to establish minimum requirements and limitations for visitations of immediate family members or other designated persons during a declared PHE or to address COVID-19.~~

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

**Chapter 85. Intermediate Care Facilities for Persons
with Developmental Disabilities**

Subchapter A. General Provisions

§8519. Statement of Deficiencies

A. C.7. ...

~~8. Pursuant to R.S. 40:2180.2(11), determination of dispute resolutions regarding deficiencies related to visitation during a declared public health emergency or related to Coronavirus Disease 2019 (COVID-19), subject to federal requirements, shall be issued by the department to the facility within 35 calendar days after the receipt of the request from the intermediate care facilities for persons with developmental disabilities (ICF/DD) for an informal dispute resolution of the deficiencies.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.~~

~~HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3186 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 47:~~

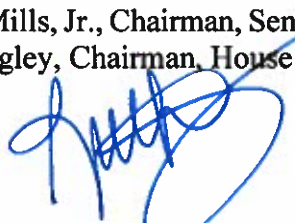


State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 10, 2021

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. 8519 and 8591 – Intermediate Care Facilities for Persons with Developmental Disabilities 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 Intermediate Care Facilities for Persons with Developmental Disabilities Licensing Standards, LAC 48:I. 8519 and 8591.

A Notice of Intent on the proposed amendments was published in the June 20, 2021 issue of the *Louisiana Register* (LR 47:773). 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 June 20, 2021, Notice of Intent when it is published as a final rule in the September 20, 2021, issue of the *Louisiana Register*.

Please contact Cynthia York, Cynthia.York@la.gov, if you have any questions or require additional information about this matter.

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

July 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 July 12, 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 (eater 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: Hospice 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 20 21. It is anticipated that \$864 will be expended in FY 20 21 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, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)~~

~~This proposed rule amends the provisions governing hospice licensing to include the definition of a public health emergency (PHE) and add exemptions relating to the qualifications required for certain nursing staff hired during a PHE. This Rule will be beneficial to recipients as it will ensure continued access to hospice services during a PHE. Providers and small businesses will benefit from implementation of this proposed Rule since the change in qualifications will alleviate potential nursing staff shortages during PHEs. It is anticipated that implementation of this proposed Rule will not result in costs to hospice providers in FY 20 21, FY 21 22, or FY 22 23.~~

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

~~This rule has no known effect on competition but may improve employment by removing barriers to hiring during public health emergencies.~~

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#035

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Developmental Disabilities Licensing Standards (LAC 48:I.8519 and 8591)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.8519 and §8591 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 27 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health to promulgate rules that provide minimum standards in relation to the requirements for licensed intermediate care facilities for persons with developmental disabilities (ICF/DDs) to allow visitation of immediate family members or other designated persons during a public health emergency (PHE) declared in accordance with R.S. 29:766 or to address Coronavirus Disease 2019 (COVID-19). In compliance with Act 27, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of ICF/DDs in order to establish minimum requirements and limitations for visitations of immediate family members or other designated persons during a declared PHE or to address COVID-19.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities

Subchapter A. General Provisions

§8519. Statement of Deficiencies

A. - C.7. ...

8. Pursuant to R.S. 40:2180.2(11), determination of dispute resolutions regarding deficiencies related to visitation during a declared public health emergency or related to Coronavirus Disease 2019 (COVID-19), subject to federal requirements, shall be issued by the department to the facility within 35 calendar days after the receipt of the request from the intermediate care facilities for persons with developmental disabilities (ICF/DD) for an informal dispute resolution of the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3186 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Subchapter F. Provider Responsibilities

§8591. Visitation by Close Family Members of a Resident During a Declared Public Health Emergency

A. For purposes of this Section, a public health emergency (PHE) means a declaration made pursuant to the Health Emergency Powers Act, R.S. 29:760 et seq.

B. ICF/DDs shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ICF/DDs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §8591.C-G shall be preempted by any federal statute, federal regulation or guidance from a federal government agency that requires an ICF/DD to restrict resident visitation in a manner that is more restrictive than the rules.

C. ICF/DDs shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in ICF/DDs during a declared PHE.

D. ICF/DDs shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in ICF/DDs during a declared PHE.

E. The provisions of this Section regarding visitation by a close family member of a resident of an ICF/DD to visit the resident during any state of PHE shall apply to all ICF/DDs licensed by LDH.

F. For purposes of this Section, a close family member shall mean a parent, step-parent, sibling, step-sibling, aunt, uncle, child, step-child, spouse, mother-in-law, father-in-law, grandparent, grandchild, or legal representative of the ICF/DD resident.

G. Subject to compliance with the requirements of §8591.B-D, each ICF/DD shall allow close family members of the residents to visit a resident of the ICF/DD during a declared PHE when a resident, or his legal or designated representative, requests a visit with close family members of the resident, subject to the following conditions and requirements:

1. Each ICF/DD shall have a written policy and procedure addressing visitation by close family members of the resident. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ICF/DD shall provide a link to an electronic copy of the policy and procedure to close family members of the residents, upon request.

2. An ICF/DD's policy and procedure regarding visitation by close family members may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ICF/DD, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. An ICF/DD's policy and procedure on visitation by close family members shall, at a minimum, require the following:

- a. that the ICF/DD give special consideration and priority for visitation by close family members and other designated persons to residents receiving end-of-life care;

- b. that visitation by close family members and other designated persons will be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ICF/DD shall utilize those methods and protocols;

- c. that a close family member or other designated person not be allowed to visit an ICF/DD resident if such close family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such close family member or other designated person tests positive for an infectious agent or infectious disease;

- d. that a close family member or other designated person not be allowed to visit an ICF/DD resident if the close family member and other designated person refuses to comply with the provisions of the ICF/DD's policy and procedure or refuses to comply with the ICF/DD's reasonable time, place, and manner restrictions;

- e. that close family members and other designated persons be required to wear personal protective equipment as determined appropriate by the ICF/DD, considering the resident's medical condition or clinical considerations;

- i. at the ICF/DD's discretion, personal protective equipment may be made available by the ICF/DD to close family members and other designated persons;

- f. that an ICF/DD's policy and procedure include provisions for compliance with a Louisiana state health officer (SHO) order or emergency notice or governor's executive order or proclamation limiting visitation during a declared PHE;

- g. that an ICF/DD's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines issued by any federal government agency regarding visitation in ICF/DDs during a declared PHE; and

- h. that includes provisions for off-site visitation, allowing a close family member to visit an ICF/DD resident away from the facility campus; the policy and procedure shall include requirements for allowing the resident to return to the facility upon certain conditions, such as meeting testing and isolation requirements recommended by the CDC, the Centers for Medicare and Medicaid Services (CMS), a Louisiana SHO order or emergency notice, or a governor's executive order or proclamation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

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 positively affect family functioning, stability and autonomy as described in R.S. 49:972 by allowing immediate family members or other designated persons to visit residents of intermediate care facilities for persons with developmental disabilities during declared public health emergencies.

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 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 July 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 July 12, 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 a.m. on July 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 July 12, 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: Intermediate Care Facilities for Persons with Developmental Disabilities 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 20-21. It is anticipated that \$972 will be expended in FY 20-21 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, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)

In compliance with Act 27 of the 2020 Second Extraordinary Session, this proposed rule amends the provisions governing the licensing of intermediate care facilities for persons with developmental disabilities (ICF/DDs) in order to establish minimum requirements and limitations for visitations of immediate family members or other designated persons during a declared public health emergency (PHE) or to address COVID-19. This proposed Rule will be beneficial to ICF/DD residents by allowing visits by immediate family members during a PHE. It is anticipated that implementation of this proposed rule will not result in costs to ICF/DDs for FY 20-21, FY 21-22, and FY 22-23, and will be beneficial by establishing standards for visitation during a declared PHE.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#036

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nursing Facilities Licensing Standards (LAC 48:I.9769 and 9771)

~~The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.9769 and 9771 as authorized by R.S. 36:254 and 40:2009.1 2116. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.~~

~~Acts 18 and 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health to promulgate rules that provide minimum standards~~



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 10, 2021

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

A handwritten signature in blue ink, appearing to read "Courtney N. Phillips".

Re: Second Report LAC 48:I. 9769 and 9771 – Nursing Facilities 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 Rule for Nursing Facilities Licensing Standards, LAC 48:I. 9769 and 9771.

A Notice of Intent on the proposed amendments was published in the June 20, 2021 issue of the *Louisiana Register* (LR 47:775). Written comments were received; however, no requests 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, as a result of the comments technical changes will be made to the proposed amendments to clarify the definition of clergy members and to correct a typographical error noted in Section 9769.I. These revisions will be incorporated into the final Rule.

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

Please contact Cynthia York, Cynthia.York@la.gov, if you have any questions or require additional information about this matter.

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

Poverty Impact Statement

In compliance with Act 554 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 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 July 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 July 12, 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 a.m. on July 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 July 12, 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 (eater 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: ~~Intermediate Care Facilities for Persons with Developmental Disabilities 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 20-21. It is anticipated that \$972 will be expended in FY 20-21 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, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)~~

~~In compliance with Act 27 of the 2020 Second Extraordinary Session, this proposed rule amends the provisions governing the licensing of intermediate care facilities for persons with developmental disabilities (ICF/DDs) in order to establish minimum requirements and limitations for visitations of immediate family members or other designated persons during a declared public health emergency (PHE) or to address COVID 19. This proposed Rule will be beneficial to ICF/DD residents by allowing visits by immediate family members during a PHE. It is anticipated that implementation of this proposed rule will not result in costs to ICF/DDs for FY 20-21, FY 21-22, and FY 22-23, and will be beneficial by establishing standards for visitation during a declared PHE.~~

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

~~This rule has no known effect on competition and employment.~~

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#036

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nursing Facilities
Licensing Standards
(LAC 48:1.9769 and 9771)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:1.9769 and §9771 as authorized by R.S. 36:254 and 40:2009.1-2116. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Acts 18 and 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health to promulgate rules that provide minimum standards

in relation to the requirements for licensed nursing facilities to allow visitation of members of the clergy and immediate family members or other designated persons during a public health emergency (PHE) declared in accordance with R.S. 29:760 et seq. and to mitigate the transmission of any infectious agent or disease. In compliance with Acts 18 and 30, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of nursing facilities in order to establish minimum requirements and limitations for visitation by clergy and immediate family members or other designated persons during a declared PHE.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Facilities

Subchapter B. Organization and General Services

§9769. Visitation by Members of the Clergy During a Declared Public Health Emergency

A. For purposes of §9769 and §9771, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

B. For purposes of §9769 and §9771, clergy shall be defined as follows:

1. a minister, priest, preacher, rabbi, imam, Christian Science practitioner; or
2. other similar functionary of a religious organization; or
3. an individual reasonably believed to be such a clergy member by the person consulting him/her.

C. For purposes of §9769 and §9771, immediate family member shall mean the following of a resident in a nursing facility:

1. spouse;
2. natural or adoptive parent, child, or sibling;
3. stepparent, stepchild, stepbrother, or stepsister;
4. father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law or sister-in-law;
5. grandparent or grandchild;
6. spouse of a grandparent or grandchild; or
7. legal or designated representative of the resident.

D. For purposes of §9769 and §9771, resident shall mean a resident of a licensed nursing facility in Louisiana or the legal or designated representative of the resident.

E. A licensed nursing facility shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency. The provisions of the licensing rules in §9769.F-I shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules.

F. Nursing facilities shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in nursing facilities during a declared PHE.

G. Nursing facilities shall comply with any executive order or proclamation issued by the governor of the state of

Louisiana regarding visitation in a nursing facility during a declared PHE.

H. The provisions of this Section regarding visitation by members of the clergy shall apply to all nursing facilities licensed by the Department of Health.

I. Subject to the requirements of §9767.E-G, each nursing facility shall allow members of the clergy to visit residents of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. Each nursing facility shall have a written policy and procedure addressing visitation by members of the clergy. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The nursing facility shall provide a link to an electronic copy of the policy and procedure to a member of the clergy, upon request.

2. A nursing facility's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the nursing facility, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. A nursing facility's policy and procedure on clergy visitation shall, at a minimum, require the following:

a. that the nursing facility give special consideration and priority for clergy visitation to residents receiving end-of-life care;

b. that a clergy member will 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; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that a clergy member not be allowed to visit a nursing facility resident 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 not be allowed to visit a nursing facility resident if the clergy member refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions; and

e. that a clergy member be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to clergy members.

f. that a nursing facility's policy and procedure include provisions for compliance with any Louisiana SHO order or emergency notice and with any governor's

executive order or proclamation limiting visitation during a declared PHE; and

g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

§9771. Visitation by Immediate Family Members and Other Designated Persons During a Declared Public Health Emergency

A. A licensed nursing facility shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency. The provisions of the licensing rules in §9771.B-E shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules.

B. Nursing facilities shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in nursing facilities during a declared PHE.

C. Nursing facilities shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in a nursing facility during a declared PHE.

D. The provisions of this Section regarding visitation by immediate family members of the resident and other designated persons shall apply to all nursing facilities licensed by the Department of Health.

E. Subject to the requirements of §9771.A-C, each nursing facility shall allow immediate family members and other designated persons to visit a resident of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements:

1. Each nursing facility shall have a written policy and procedure addressing visitation by immediate family members and other designated persons. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The nursing facility shall provide a link to an electronic copy of the policy and procedure to immediate family members and other designated persons, upon request.

2. A nursing facility's policy and procedure regarding visitation by immediate family members and other designated persons may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the nursing facility, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. A nursing facility's policy and procedure on visitation by immediate family members and other designated persons shall, at a minimum, require the following:

a. that the nursing facility give special consideration and priority for visitation by immediate family members and other designated persons to residents receiving end-of-life care;

b. that visitation by immediate family members of the residents and other designated persons will be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that an immediate family member or other designated person not be allowed to visit a nursing facility resident if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

d. that an immediate family member or other designated person not be allowed to visit a nursing facility resident if the immediate family member or other designated person refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions;

e. that immediate family members and other designated persons be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to immediate family members and other designated persons;

f. that a nursing facility's policy and procedure include provisions for compliance with any Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE;

g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency; and

h. that includes provisions for off-site visitation, allowing an immediate family member or other designated person to visit a nursing facility resident away from the facility campus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

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 clergy and immediate family members, or other designated persons of a nursing facility resident to visit during a declared public health emergency.

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 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 July 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 July 12, 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 July 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 July 12, 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.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities—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 20-21. It is anticipated that \$1,080 will be expended in FY 20-21 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, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amends the provisions governing the licensing of case management providers in order to amend the training and education requirements to address current staff shortages and ensure sufficient access to services. This Rule will be beneficial to recipients as it will ensure continued access to needed case management services. Providers and small businesses will benefit from implementation of this proposed Rule since the change in education and training requirements for case managers and supervisors reduces hiring barriers. It is anticipated that implementation of this proposed Rule will not result in costs to case management providers in FY 20-21, FY 21-22, and FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and a positive effect on employment.

Tasheka Dukes, RN
Deputy Assistant Director
2106#037

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Reimbursement for Coronavirus Disease 2019 (COVID-19) Laboratory Testing (LAC 50:V.117 and XI.7503)

~~The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.117 and amend LAC 50:XI.7503 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 inpatient hospital services and ambulatory surgical centers in order to provide for reimbursement of laboratory testing for Coronavirus Disease 2019 (COVID-19) separately from~~

SUMMARY OF WRITTEN COMMENTS

Proposed Rule: Nursing Facilities – Licensing Standards
Public Hearing Date: N/A
Docket No. : N/A
Conducted By: N/A

Written Comments Received From	Mode of Receipt	Summary of Comments
Mark Berger Executive Director LA Nursing Home Association (LNHA)	Email to Health Standards Section	Requests clarification regarding the definition of clergy member in §9769.B.3 and confirmation of the accuracy of the citation in §9769.I of the published Notice of Intent.

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

July 26, 2021

Mark D. Berger, CPA CGMA
Executive Director
Louisiana Nursing Home Association
7844 Office Park Blvd.
Baton Rouge, LA 70809

Dear Mr. Berger:

RE: Notice of Intent for Nursing Facilities - Licensing Standards

This letter is in response to your correspondence regarding the Notice of Intent for Nursing Facilities – Licensing Standards which was published in the June 20, 2021 edition of the *Louisiana Register*.

This Notice of Intent proposes to amend the provisions governing the licensing of nursing facilities in order to establish minimum requirements and limitations for visitation by clergy and immediate family members or other designated persons during a declared public health emergency.

After thoroughly reviewing the concerns noted in your communication with the Department's Health Standards Section, the decision has been made to revise the provisions of the proposed Rule to further clarify the definition of clergy members and to correct the typographical error you noted in §9769.I. These are technical revisions to the published Notice of Intent which will be incorporated into the provisions of the final Rule.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards,

Mark D. Berger Response
July 26, 2021
Page 2

you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

A handwritten signature in black ink that reads "Tasheka Dukes". The signature is written in a cursive, flowing style.

Tasheka Dukes, RN
Deputy Assistant Secretary
LDH Health Standards Section

TD/KHB/VYD

c: Kelly Zimmerman
Kimberly Humbles



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 10, 2021

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 50:V. 117 and XI. 7503 – Reimbursement for Coronavirus Disease Testing 2019 (COVID-19) Laboratory Testing

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Reimbursement for Coronavirus Disease Testing 2019 (COVID-19) Laboratory Testing, LAC 50:V. 117 and XI. 7503.

A Notice of Intent on the proposed amendments was published in the June 20, 2021 issue of the *Louisiana Register* (LR 47:778). 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 June 20, 2021, Notice of Intent when it is published as a final rule in the September 20, 2021, issue of the *Louisiana Register*.

Please contact Marcus Bachhuber, MD, Marcus.Bachhuber@la.gov and Andrew Perilloux, Andrew.Perilloux@la.gov, if you have any questions or require additional information about this matter.

Cc: Daniel Cocran, Medicaid Deputy Director, LDH
Jennifer Katzman, Interim Senior Staff Advisor, LDH
Kelly Zimmerman, Interim 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

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 clergy and immediate family members, or other designated persons of a nursing facility resident to visit during a declared public health emergency.

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 Tashoka 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 July 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 July 12, 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 July 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 July 12, 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.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities—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 20-21. It is anticipated that \$1,080 will be expended in FY 20-21 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, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)~~

~~The proposed rule amends the provisions governing the licensing of case management providers in order to amend the training and education requirements to address current staff shortages and ensure sufficient access to services. This Rule will be beneficial to recipients as it will ensure continued access to needed case management services. Providers and small businesses will benefit from implementation of this proposed Rule since the change in education and training requirements for case managers and supervisors reduces hiring barriers. It is anticipated that implementation of this proposed Rule will not result in costs to case management providers in FY 20-21, FY 21-22, and FY 22-23.~~

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

~~This rule has no known effect on competition and a positive effect on employment.~~

Tashoka Dukes, RN
Deputy Assistant Director
2106#037

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Reimbursement for Coronavirus Disease 2019 (COVID-19) Laboratory Testing (LAC 50:V.117 and XI.7503)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.117 and amend LAC 50:XI.7503 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 inpatient hospital services and ambulatory surgical centers in order to provide for reimbursement of laboratory testing for Coronavirus Disease 2019 (COVID-19) separately from

inpatient hospital per diem payments and ambulatory surgical center flat fee reimbursement amounts.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals Services

Chapter 1. General Provisions

§117. Laboratory Testing for Coronavirus Disease 2019 (COVID-19)

A. Effective for dates of service on or after September 20, 2021, the Medicaid Program shall provide reimbursement to acute care hospitals for COVID-19 laboratory testing provided to inpatients.

B. Reimbursement. Hospitals shall be reimbursed for such testing in addition to the hospital per diem payment for the inpatient hospital stay.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

Part XI. Clinic Services

Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement

§7503. Reimbursement Methodology

A. - A.2. ...

3. Effective for dates of service on or after September 20, 2021, the Medicaid Program shall provide reimbursement for COVID-19 laboratory testing in addition to the ambulatory surgical center flat fee reimbursement amount.

B. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:2278 (October 2010), LR 37:1572 (June 2011), LR 39:317 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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. 49:965.2 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, but may reduce the total direct and indirect cost to some providers to provide the same level of service, and may enhance those provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule provides payments to providers for services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 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 July 12, 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 July 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 July 12, 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: Reimbursement for Coronavirus Disease 2019 (COVID-19) Laboratory Testing

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$270 for FY 20-21, \$2,798,058 for FY 21-22 and \$3,632,696 for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 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 increase federal revenue collections by approximately \$270 for FY 20-21, \$10,103,209 for FY 21-22, and \$11,848,824 for FY 22-23. It is anticipated that \$270 will be collected in FY 20-21 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, SMALL BUSINESS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing inpatient hospital services and ambulatory surgical centers in order to provide for reimbursement of laboratory testing for Coronavirus Disease 2019 (COVID-19) separately from inpatient hospital per diem payments and ambulatory surgical center flat fee reimbursement amounts. This proposed Rule will be beneficial to patients in inpatient hospitals and ambulatory surgical centers by improving access to COVID-19 testing. It is anticipated that implementation of this proposed Rule will increase payments to inpatient hospitals and ambulatory surgical centers by approximately \$12,901,267 for FY 21-22 and \$15,481,520 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Executive Director
2106#038

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 17—Reinstatement of Policies
(LAC 37:XIII, Chapter 63)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to repeal Regulation 17—Reinstatement of Policies.

Regulation 17 is being repealed because existing statutory language provides sufficient guidance, and regulatory clarification is no longer necessary.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 63.—Regulation 17—Reinstatement of Policies

§6301. Policy Directive Number Four to Non-Profit

Funeral Associations

Repealed:

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:336 and 22:259(6).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, December 3, 1958, repealed LR 47:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary