

this proposed Rule will have no impact on family functioning, stability or 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 the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Sullivan, JD, is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2024.

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 May 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on May 30, 2024 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 May 10, 2024. 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.

Ralph L. Abraham, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Provider Screening and Enrollment

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

It is anticipated that this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$2,592 (\$1,296 SGF and \$1,296 FED) will be expended in FY 23-24

for the state's administrative expense for promulgation of this proposed rule and the final rule.

The proposed rule amends the provisions governing provider screening and enrollment in order to comply with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements to align the provisions governing out-of-state enrollment and single case agreements with the Medicaid Provider Enrollment Compendium, to codify provisions for informal hearings and appeal rights for provider enrollment denials and terminations, and to ensure that the administrative rule is consistent with current practices.

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 impact on revenue collections other than the federal share of the promulgation costs for FY 23-24. It is anticipated \$1,296 will be collected in FY 23-24 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 BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amends the provisions governing provider screening and enrollment in order to comply with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements to align the provisions governing out-of-state enrollment and single case agreements with the Medicaid Provider Enrollment Compendium, to codify provisions for informal hearings and appeal rights for provider enrollment denials and terminations, and to ensure that the administrative rule is consistent with current practices. It is anticipated that implementation of this proposed rule will not result in costs to Medicaid providers or small businesses in FY 23-24, FY 24-25, and FY 25-26, but will be beneficial by codifying an informal hearings and appeal process and ensuring that the Louisiana Administrative Code aligns with CMS requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Kimberly Sullivan, JD
Medicaid Executive Director
2404#048

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Health Standards Section

Facility Need Review
(LAC 48:I.Chapter 125)

The Department of Health (the department), Health Standards Section proposes to amend LAC 48:I.Chapter 125, and to adopt §12510, §12511, and §12512 as authorized by R.S. 36:254 and R.S. 40:2116 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Health Standards Section proposes to amend the provisions governing facility need review (FNR) in order to ensure that the FNR process for nursing facilities coincides with current statute requiring FNR approval by the department.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review
Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

* * *

Intermediate Care-Level I (IC-I)—Repealed.

Intermediate Care-Level II (IC-II)—Repealed.

* * *

Nursing Facility (NF)—a licensed institution that is primarily engaged in providing the following services to residents:

a. nursing care and related services for residents who require medical or nursing care;

b. - c. ...

* * *

Skilled Nursing Care—Repealed.

Skilled Nursing Facility—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:221 (February 2024), amended LR 50:

§12503. General Information

A. - B.8.c. ...

C. The FNR committee will conduct an FNR to determine if there is a need for additional providers, facilities, or beds to be licensed by LDH and/or enrolled to participate in the Title XIX program for the following healthcare facility types, as defined under this Chapter:

1. intermediate care facilities for persons with developmental disabilities (ICF-DD);

2. home and community-based service (HCBS) providers of respite care (RC) services, personal care attendant (PCA) services, supervised independent living (SIL) services, and monitored in-home caregiving (MIHC) services;

3. hospice providers;

4. pediatric day health care (PDHC) facilities;

5. behavioral health services providers (BHSP) of psychosocial rehabilitation (PSR) services, and community psychiatric support and treatment (CPST) services; and

6. behavioral health services providers of opioid treatment program (OTP) services;

7. - 8. Repealed.

D. - E. ...

F. The department will determine if there is a need for additional providers, facilities, or beds to be licensed by LDH and/or enrolled to participate in the Title XIX program for nursing facilities.

G. Except as otherwise provided in the grandfather provisions of these regulations, each healthcare provider designated in R.S. 40:2116 or R.S. 40:2116.1 shall first receive FNR approval before applying to be licensed by LDH and before being certified to participate in the Title XIX program.

1. - 4. Repealed.

H. Grandfather Provision. An approval shall be deemed to have been granted under this program without review for NFs, ICFs/DD, and/or beds that meet one of the following descriptions:

1. all valid Section 1122 approved healthcare facilities/beds;

2. all valid approvals for healthcare facilities/beds issued under the Medicaid Capital Expenditures Review Program prior to the effective date of this program;

3. all valid approvals for healthcare facilities issued under the FNR program; or

4. all NF beds that were enrolled in Medicaid as of January 20, 1991.

5. - 8. Repealed.

I. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers of RC, PCA, SIL, or MIHC services, ICFs/DD, hospice providers, PDHC providers, or BHSPs that meet one of the following conditions:

1. Home and Community Based Service providers that were licensed by January 31, 2009 or had a completed initial licensing application submitted to the department by June 30, 2008;

2. existing licensed ICFs-DD that are converting to the Residential Options Waiver;

3. licensed Adult Day Health Care (ADHC) providers who are enrolled or will enroll in the Louisiana Medicaid Program as a Program for All-inclusive Care for the Elderly (PACE) provider and apply for an HCBS license to provide PCA services as required by the program;

4. hospice providers that were licensed or had a completed initial licensing application submitted to the department by March 20, 2012;

5. pediatric day health care providers that were licensed by the department before March 1, 2014, or an entity that meets all of the following requirements:

a. has a building site or plan review approval for a PDHC facility from the Office of State Fire Marshal by March 1, 2014;

b. has begun construction on the PDHC facility by April 30, 2014, as verified by a notarized affidavit from a licensed architect submitted to the department, or the entity had a fully executed and recorded lease for a facility for the specific use as a PDHC facility by April 30, 2014, as verified by a copy of a lease agreement submitted to the department;

c. submits a letter of intent to the department's HSS by April 30, 2014, informing the department of its intent to operate a PDHC facility; and

d. became licensed as a PDHC by the department no later than December 31, 2014.

6. behavioral health services providers that are licensed to provide PSR and/or CPST, or that have submitted a completed application for licensure as a BHSP that includes PSR and/or CPST, prior to February 20, 2018;

7. behavioral health services providers that are licensed to provide OTP services, or that have submitted a complete application for licensure as a BHSP that includes OTP services prior to January 1, 2024; or

8. behavioral health services providers that fall within the provisions of Act 33 of the 2017 Regular Session of the Louisiana Legislature, commonly referred to as accredited

mental health rehabilitation providers, that submit a completed BHSP licensing application by December 1, 2017 and become licensed by April 1, 2018.

J. Exemptions from the FNR process shall be made for:

1. a NF that needs to be replaced as a result of destruction by fire or a natural disaster, such as a hurricane; or

2. a NF and/or facility building owned by a government entity that is replaced due to a potential health hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:223 (February 2024), amended LR 50:

§12505. Initial Application and Review Process for ICF-DD, HCBS Providers of RC, PCA, SIL, or MIHC Services, Hospice Providers, PDHC Facilities, BHSP of PSR, CPST, and OTP Services

A. ...

B. Facility need review applications shall be submitted on 8.5 inch by 11 inch paper that shall not include Health Insurance Portability and Accountability Act (HIPAA) protected information, to the HSS, FNR program manager by one of the following means:

B.1. - G.6.b.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:224 (February 2024), amended LR 50:

§12507. Supplemental Application Review Process for ICF-DD, HCBS Providers of RC, PCA, SIL, or MIHC Services, Hospice Providers, PDHC Facilities, BHSP of PSR, CPST, and OTP Services

A. ...

B. Upon receipt of the applicant's timely written request to supplement its FNR application, a written confirmation notice will be sent to the applicant informing the applicant of the deadline to submit any additional documentation and evidence in support of the FNR application, pursuant to the provisions of this Rule.

B.1. - C.2. ...

D. Following the meeting, the applicant will have an additional 30 days to submit any other evidence, data, and documentation to further supplement the FNR application. At the conclusion of this step, the FNR committee will meet to consider all the supplemental documentation, data, and evidence submitted by the applicant, as well as the issues discussed at the meeting with the applicant, if applicable.

1. ...

2. The FNR committee shall render a decision on the supplemental application within 60 days of the deadline for submission of any additional documentation and evidence by the applicant after the supplemental review meeting; such decisions are to be by simple majority decision.

3. - 3.c....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:225 (February 2024), amended LR 50:

§12509. Administrative Appeal Procedures for ICF-DD, HCBS Providers of RC, PCA, SIL, or MIHC Services, Hospice Providers, PDHC Facilities, BHSP of PSR, CPST, and OTP Services

A. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:226 (February 2024), amended LR 50:

§12510. Initial Application and Review Process for Nursing Facilities

A. The department will conduct an FNR to determine if there is a need for additional nursing facilities or beds to be licensed by LDH and/or enrolled to participate in the Title XIX program.

B. Facility need review applications shall be submitted on 8.5 inch by 11 inch paper that shall not include Health Insurance Portability and Accountability Act (HIPAA) protected information, to the HSS, FNR program manager by one of the following means:

1. via postal service to the designated FNR program mailing address; or

2. electronically via the HSS designated system or software.

C. Application forms may be requested in writing or by telephone from the FNR program, or accessed via the department's designated website.

D. The applicant shall also submit with its application, any written documentation or evidence the applicant believes supports its FNR application, including but not limited to the following examples.

1. Any data/documents regarding waiting lists for the proposed services in the applicant's service area.

2. Any letters from healthcare facilities, medical professionals or others, who have clients/patients/recipients awaiting the proposed services in the applicant's service area.

3. Any data/documentation of complaints about clients/patients/recipients not being able to access the proposed services in the applicant's service area.

4. Any data/documentation about population groups that do not have access to the proposed services in the applicant's service area, to whom the applicant will provide such services.

5. Other data/documentation about the need in the applicant's service area for the proposed services.

6. Other data/documentation about the probability of serious adverse consequences to recipient's ability to access healthcare if the applicant was not allowed to be licensed.

E. The applicant representative specified on the application will be the only person to whom the FNR program will send written notification in matters relative to the status of the application during the review process. If the applicant's application information or representative changes at any time during the review process, the applicant is required to notify the FNR program in writing.

F. The required nonrefundable FNR application fee of \$200 shall be submitted either by mail to the designated payment address or electronically via the HSS designated system or software.

G. The review period of the initial application will be no more than 90 days from receipt of the FNR application; thereafter, a decision will be rendered by the department. The review period begins on the first day after the date of receipt of the completed application.

H. Grandfather Provision. An FNR approval shall be deemed to have been granted under this program without review for NFs that meet one of the following descriptions:

1. all valid Section 1122 approved healthcare facilities/beds;

2. all valid approvals for healthcare facilities/beds issued under the Medicaid Capital Expenditure Review Program prior to the effective date of this program;

3. all valid approvals for healthcare facilities issued under the FNR program; or

4. all NF beds that were enrolled in Medicaid as of January 20, 1991.

I. Exemptions from the FNR process shall be made for:

1. a NF that needs to be replaced as a result of destruction by fire or a natural disaster, such as a hurricane; or

2. a NF and/or facility building owned by a government entity that is replaced due to a potential health hazard.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12511. Supplemental Application Review Process for Nursing Facilities

A. If the applicant decides to request a supplemental review of the denied initial application, a written request for supplemental application review must be received by the department within 30 days of receipt of notice of the denial letter.

B. Upon receipt of the applicant's timely written request to supplement its FNR application, a written confirmation notice will be sent to the applicant informing the applicant of the deadline to submit any additional documentation and evidence in support of the FNR application, pursuant to the provisions of this Rule.

1. If the applicant fails to timely submit the supplemental materials, the supplemental application is automatically denied. Written notice of the denial shall be forwarded to the applicant, with information regarding the applicant's right to file an administrative appeal with the DAL.

C. Upon timely receipt of the supplemental materials from the applicant, the department shall conduct a supplemental application review.

1. The department shall review all supplemental review material submitted by the applicant and issue a supplemental review decision to approve or deny the FNR application within 60 days of the deadline for submission of any additional documentation and evidence by the applicant, and shall forward written notice to the applicant of such decision.

- a. The written notice of the supplemental application review decision shall be sent to the applicant by

certified mail or by electronic mail with a request for acknowledgement and a read delivery receipt.

- b. The written notice shall include information on the applicant's right to file an administrative appeal of the denial with the DAL within 30 calendar days of receipt of the supplemental application denial notice.

- c. Failure to file timely for an administrative appeal shall exhaust the applicant's remedies with the department, and the decision to deny FNR approval is final.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12512. Administrative Appeal Procedures for Nursing Facilities

A. An applicant who receives a denial of an initial FNR application or denial of a supplemental FNR application may request an administrative hearing within 30 calendar days after receipt of the department's notice of denial of FNR application.

1. The request for an administrative hearing shall be made in writing to the DAL with a copy of the request also sent to the department's FNR program.

2. The request shall contain a statement setting forth the specific reason with which the applicant disagrees and the reasons for the disagreement.

3. The request shall be considered timely if it is postmarked by the 30th calendar day after receipt of the department's notice of denial.

B. The administrative appeal shall be conducted by the DAL in accordance with the Administrative Procedure Act.

C. Failure to file timely for an administrative appeal shall exhaust the applicant's remedies with the department and the decision to deny FNR approval is final.

D. Unless a timely and proper administrative appeal request is received by the DAL, the findings of the department shall be considered a final and binding administrative determination.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

Subchapter B. Determination of Bed, Unit, Facility, or Agency Need

§12517. Nursing Facilities

A. - F.1. ...

G. The determination of occupancy rates of nursing facilities or beds shall be as follows:

1. Beds for which occupancy shall be based shall include NF beds that are enrolled in Title XIX.

G.2. - J. ...

K. Exceptions for areas with high occupancy rates may be considered in the following situations.

1. - 2.c. ...

3. If the department determines that there is, in fact, a need for beds in a parish with average annual occupancy in excess of 95 percent, a RFP or RFA will be issued. No applications will be accepted under these provisions unless the department declares a need and issues a RFP or RFA. Applications will be accepted for expansions of existing facilities and/or for the development of new nursing facilities.

- a. - c. ...

d. The RFP or RFA shall specify the following:
i. - ii. ...
iii. process of review by the department of any applications timely received, including any supplemental review process;

iv. - vi. ...
e. The department will review the proposals and independently evaluate and assign points (out of a possible 120) to the applications as follows:

e.i. - f.v. ...
g. If there is a tie for the highest score for a specific facility or beds, the department will conduct a comparative review of the top scoring proposals that will include prior compliance history, if applicable. The department may request and review data from OAAS and HSS on prior compliance history. Subject to K.3.h of this Section, the department will make a decision to approve one of the top scoring applications based on comparative review of the proposals.

K.3.h. - L.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:229 (February 2024), amended LR 50:

Subchapter D. Relocation of Nursing Facility Beds

§12541. General Provisions

A. - C.1.h. ...

i. The provisions of §12541.C pertaining to the transfer of Medicaid FNR approvals shall sunset in 24 months from the date of the promulgation of the final Rule implementing §12541.C and shall have no effect henceforth.

D. - D.1.g. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:236 (February 2024) amended LR 50:

Subchapter F. Exception Criteria for Facility Need

Review Bed Approvals

§12553. Temporary Inactivation Due to Major Alterations

A. A NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of the facility's FNR bed approvals provided that:

1. - 5.b....

6. there shall be no effect upon the Medicaid reimbursement rate of a nursing facility or an ICF/DD that is undergoing major alterations pursuant to this Rule during the period of the inactivation of the FNR approval.

7. failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FNR bed approvals.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:240 (February 2024), amended LR 50:

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 the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 May 30, 2024.

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 May 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:00 a.m. on May 28, 2024 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 May 10, 2024. 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.

Ralph L. Abraham, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Facility Need Review

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 23-24. It is anticipated that \$1,728 will be expended in FY 23-24 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 as this measure has no impact on licensing or Facility Need Review (FNR) fees.

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

This proposed Rule amends and also adopts provisions governing FNR in order to ensure that the FNR process for nursing facilities coincides with the current statute requiring FNR approval by the Department of Health (the department). It is anticipated that implementation of this proposed Rule will not result in costs to nursing facilities in FY 23-24, FY 24-25, and FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2404#052

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 129—Surplus Lines Insurance Refund or Credit of Gross Premium Taxes (LAC 37:XIII.Chapter 197)

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 promulgate Regulation 129—Surplus Lines Insurance Refund or Credit of Gross Premium Taxes. Regulation 129 defines the requirements to receive a surplus lines insurance refund or credit for taxes paid on gross premium received by the Louisiana Department of Insurance.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 197. Regulation Number 129—Surplus Lines Insurance Refund or Credit of Gross Premium Taxes

§19701. Purpose

A. The purpose of this regulation is to define the requirements to receive a surplus line insurance refund for taxes paid on gross premium received by the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§19703. Applicability and Scope

A. Regulation 129 shall apply to impositions of a tax of four and eighty-five one hundredths of one percent per annum on the gross premium without regard to the location of the covered property, risk, or exposure for all insurance placed through a Louisiana licensed surplus lines broker

with a surplus lines insurer or other unauthorized insurer and for which Louisiana is the home state of the policyholder as defined in R.S. 22:46.

B. The refund or credit shall only apply to Louisiana licensed surplus lines brokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§19707. Authorization of Refunds or Credit

A. For the purpose of this Chapter, a refund or credit of gross premium taxes is authorized when there is a payment of tax when none was due.

B. The commissioner may make a refund or credit of each payment where it is determined that the payment was the result of an error, omission, or a mistake of fact of consequence to the determination of the tax liability, whether on the part of the taxpayer or the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§19709. Prescription Period of Refund or Credits

A. After three years from the 31st day of December of the year in which the tax became due or after one year from the date the tax was paid, whichever is the later, no refund or credit for a payment shall be made unless the commissioner has been notified of a claim for credit or refund by the taxpayer claiming such credit or refund before the expiration of said three-year or one-year period. The maximum amount which shall be refunded or credited shall be the amount paid within said three-year or one-year period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§19711. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended and repealed 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 and repealed 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 and repealed 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 and