

NOTICE OF INTENT

Department of Health
Health Standards Section

Nurse Staffing Agencies
Licensing Standards
(LAC 48:I.Chapter 77)

The Department of Health, Health Standards Section,
proposes to amend LAC 48:I.Chapter 77 as authorized by R.S.
36:254 and 40:2120.11 et seq. This proposed Rule is promulgated
in accordance with the provisions of the Administrative
Procedure Act, R.S. 49:950 et seq.

The Department of Health, Health Standards Section,
proposes to amend the provisions governing the licensing of
nurse staffing agencies in order to add and update definitions,
adjust social media policy requirements, revise administrator
requirements, and modify initial licensure and change of
ownership requirements.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 77. Nursing-Nurse Staffing Agencies Licensing
Standards

Subchapter A. General Provisions

§7703. Definitions

Client—the licensed healthcare facility or agency to which
the registered nurse, licensed practical nurse, or certified
nursing assistant is assigned ~~on a temporary basis~~ an initial
employment, assignment, or referral term for an undefined term,
or an initial term of less than twenty-four continuous months
exclusive of any extension.

Digital/Smart Phone Application—a computer program or software application operated by an agency that maintains data of nurses or certified nurse aides for purposes of referring the nurse or certified nurse aide directly to a healthcare facility through the digital/smart phone application.

Digital Website/Platform—an online webpage or technology platform operated by an agency that maintains data of nurses or certified nurse aides submitted to the agency online, for purposes of referring the nurse or certified nurse aide directly to a healthcare facility by the digital website/platform agency.

Nurse Staffing Agency (NSA)—any person, partnership, corporation, unincorporated association, or other legal entity, including a digital website/platform, or digital/smart phone application that employs, assigns, or refers nurses or certified nurse aides to render healthcare services in a healthcare facility for a fee. For purposes of these regulations, NSA does not include the following:

1. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1729 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

§7707. Initial Licensure Application Process

A. - B.7. ...

8. a ~~copy-completed disclosure of a statewide criminal background check including sex offender registry status, on all applicant(s), owner(s) with 5 percent or more~~

~~ownership interest, ownership and administrator/director, for any state lived in within the last five years~~control form;

9. ~~a completed disclosure statement of ownership the days and control information form hours of operation; and~~

10. ~~a statement of any other relevant documentation or information required by the days and hours of operation; and department for licensure.~~

11. ~~any other relevant documentation or information required by the department for licensure~~Repealed.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1730 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

\$7715. Change of Ownership of a Nurse Staffing Agency Provider

A. - B.7. ...

8. ~~a copy of a statewide criminal background check, including sex offender registry status, on all applicant(s), owner(s) with 5 percent or more completed disclosure of ownership and control~~interest, and administrator/director, and for any state lived in within the last five years information form;

9. ~~a completed disclosure of ownership and control information form; and any other relevant documentation or information required by the department for licensure.~~

10. ~~any other relevant documentation or information required by the department for licensure~~Repealed.

C. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1733 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

Subchapter B. Administration and Organization

7737. Policy and Procedures

A. - A.13. ...

14. a written policy to address prohibited use of social media. The policy shall ensure that all employees or contracted staff, ~~receive training relative to the restricted use of social media and include,~~ at a minimum, ~~ensuring~~ ensure preservation of dignity, respect, and confidentiality of an individual or individuals' receipt of healthcare services, and protection of an individual or individuals receiving healthcare services' privacy and personal and property rights.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1739 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

Subchapter C. Provider Responsibilities

§7751. Core Staffing Requirements

A. - D.7. ...

8. implement an ongoing, accurate, and effective budgeting and accounting system; and

9. ensure that all employees or contracted staff receive proper orientation and training on policies and procedures, as required by law or as necessary to fulfill each employee or contracted staff person's responsibilities; ~~and.~~

10. ~~not serve as administrator for more than one licensed NSA~~(Repealed).

E. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1740 (October 2023), amended by the Department of Health, Health Standards Section, 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 may result in an indeterminable decrease in costs to small business

providers in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

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 no impact on the provider's ability to provide the same level of service as described in HCR 170. It is anticipated that this proposed Rule may result in an indeterminable decrease in costs to NSA in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 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 December 11, 2023. 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 January 4, 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 December 11, 2023. 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.

Stephen R. Russo, JD

Secretary