

NOTICE OF INTENT

Department of Health
Health Standards Section

Nursing Facilities
Licensing Standards
(LAC 48:I.9701 and 9759)

The Department of Health, Health Standards Section (the department) proposes to amend LAC 48:I.9701 and §9759 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The department proposes to amend the provisions governing the licensing of a nursing facilities (NF) in order to require NFs to access the certified nurse aide (CNA) registry and the Louisiana adverse actions list, prior to hire and then monthly thereafter to ensure that a prospective hire or currently employed or contracted CNA does not have a finding.

Title 48

PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter A. General Provisions

§9701. Definitions

* * *

Direct Service Worker Registry—the Louisiana adverse actions list maintained by the department, or its designee, of unlicensed persons who have a finding placed against them of abuse, neglect, misappropriation, exploitation, or extortion while employed as a direct service worker (DSW) at a licensed healthcare facility or entity, who is ineligible to be employed or have continued employment as a DSW.

* * *

Louisiana Adverse Actions List—the adverse actions database, or its successor, maintained by the department or its designee, containing all individuals or providers who are sanctioned, which may include exclusions or for-cause terminations through LDH.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1891 (November 2016), amended LR 46:1393 (October 2020), LR 49:1075 (June 2023), amended by the Department of Health, Health Standards Section, LR 51:

§9759 Criminal History Provisions and Screening

A. ...

B. ~~All personnel requiring licensure~~Prior to provide care
~~shall be currently licensed to practice in~~hire and then monthly
~~thereafter,~~the state ofnursing facility (NF) shall access the
certified nurse aide (CNA) registry and the Louisiana adverse
actions list to determine if there is a finding that a prospective
hire or currently employed or contracted CNA has been determined to
have committed exploitation, extortion, abuse or neglect of an
individual in the care of the CNA, or there has been a
misappropriation of the individual's property or funds. ~~Credentials~~
~~of all licensed full-time, part-time and consultant personnel shall~~
~~be verified on an annual basis in writing by~~If there is such a
finding on either database, the prospective employee shall not be
hired as a~~designated staff member~~CNA nor shall a current or
contracted CNA have continued employment with the NF.

C. All personnel,~~including routine unpaid workers, involved~~
~~in direct resident care,~~requiring licensure to provide care shall
~~adhere~~be currently licensed to practice in the ~~Title 51, Public~~
~~Health Sanitary Code, Chapter 5 requirements for health examinations~~
~~and tuberculosis (TB) testing for employees and volunteers~~state of

Louisiana. Credentials of all licensed full-time, part-time, and consultant personnel shall be verified prior to hire or contract, and at least annually thereafter.

D. All personnel, including routine unpaid workers, involved in direct resident care, shall adhere to the Title 51, Public Health Sanitary Code, Chapter 5 requirements for health examinations and tuberculosis (TB) testing for employees and volunteers.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1903 (November 2016), amended by the Department of Health, Health Standards Section, LR 51:

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 the direct or indirect cost to 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. It is anticipated that implementation of this proposed Rule will have no impact on the direct or indirect costs to providers.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, Post Office 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 April 2, 2025.

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 March 13, 2025. 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 April 1, 2025 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 March 13, 2025. 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.

Michael Harrington, MBA, MA

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Cynthia York</u>	Dept.:	<u>Health</u>
Phone:	<u>225-342-9049</u>	Office:	<u>Health Standards Section</u>
Return Address:	<u>P. O. Box 3767</u>	Rule Title:	<u>Nursing Facilities</u>
	<u>Baton Rouge, LA</u>	Date Rule Takes Effect:	<u>As soon as possible</u>

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 in FY 24-25. It is anticipated that \$648 will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the licensing of nursing facilities (NFs) in order to require NFs to access the certified nurse aide (CNA) registry and the Louisiana adverse actions list prior to hire and then monthly thereafter to ensure that a prospective hire or currently employed or contracted CNA does not have a finding.

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

It is anticipated that implementation of this proposed rule will have no impact on state revenue collections in FY 24-25, FY 25-26, or FY 26-27.

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

It is anticipated that implementation of this proposed rule will not result in costs to providers in FY 24-25, FY 25-26, or FY26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

<u>Signature of Head or Designee</u> Tasheka Dukes, RN Deputy Assistant Secretary LDH Health Standards Section <u>Typed Name & Title of Agency Head or Designee</u>	<u>Legislative Fiscal Officer or Designee</u>
<u>Date of Signature</u>	<u>Date of Signature</u>

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed rule amends the provisions governing the licensing of nursing facilities (NFs) in order to require NFs to access the certified nurse aide (CNA) registry and the Louisiana adverse actions list prior to hire and then monthly thereafter to ensure that a prospective hire or currently employed or contracted CNA does not have a finding.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

This action is being taken in order to comply with the requirements of Act 737 of the 2024 Louisiana Regular Session of the Louisiana Legislature.

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation in FY 24-25. In FY 24-25, \$648 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ YES. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 25	FY 26	FY 27
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$648	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$0	\$0	\$0
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	\$648	\$0	\$0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

In FY 24-25, \$648 will be spent for the state's administrative expenses for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$648	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
OTHER (Specify)	\$0	\$0	\$0
TOTAL	\$648		

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this proposed rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

It is anticipated that this proposed rule will have no impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

It is anticipated that this proposed rule will have no impact on the sources of local governmental unit funding.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A."
Describe all data, assumptions, and methods used in calculating these increases or decreases.

It is anticipated that implementation of this proposed rule will have no impact on state revenue collections in FY 24-25, FY 25-26, or FY 26-27.

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

A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

It is anticipated that implementation of this proposed rule will not result in costs to providers in FY 24-25, FY 25-26, or FY 26-27.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

It is anticipated that this proposed rule will have no effect on receipts and/or income in FY 24-25, FY 25-26, or FY 26-27.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

It is anticipated that this proposed rule will have no effect on competition and employment.