

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

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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.

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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.

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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:

Subchapter B. Organization and General Services §9759 Criminal History Provisions and Screening

A. ...

B. Prior to hire and then monthly thereafter, the nursing 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. If there is such a finding on either database, the prospective employee shall not be hired as a CNA nor shall a current or contracted CNA have continued employment with the NF.

C. All personnel requiring licensure to provide care shall be currently licensed to practice in the 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
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 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
NONGOVERNMENTAL 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.

Tasheka Dukes, RN
Deputy Assistant Secretary
2502#038

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office