

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Facility Need Review  
Outpatient Abortion Facilities  
(LAC 48:I.Chapter 125)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.12501 and §12503 and repeals §12524 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) (1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the Rule governing the Facility Need Review Program (FNR) in order to adopt provisions for the inclusion of outpatient abortion facilities in the FNR process (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Facility Need Review Program to remove outpatient abortion facilities from the FNR process (*Louisiana Register*, Volume 41, Number 7). The department has now found it necessary to amend the provisions of the July 1, 2015 Emergency Rule in order to correct the formatting of §12503

as a result of the promulgation of a January 20, 2015 Rule governing the FNR process. This action is being taken to avoid imminent peril to the public health, safety or welfare of women.

Effective October 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the July 1, 2015 Emergency Rule governing the Facility Need Review (FNR) program.

**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. ...

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*Outpatient abortion facility—Repealed.*

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AUTHORITY NOTE: Promulgated in accordance with R.S. 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 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:135 (January 2015), LR 41:

**§12503. General Information**

A. - B. ...

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...

4. hospice providers or inpatient hospice facilities;

and

5. ~~outpatient abortion facilities; and~~ pediatric day health care facilities.

6. ~~pediatric day health care facilities~~ Repealed.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ~~ICFs-DD~~ ICFs/ID, ADHC providers, hospice providers, ~~outpatient abortion facilities,~~ and pediatric day health care centers that meet one of the following conditions:

1. - 3. ...

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

5. ~~outpatient abortion facilities which were licensed by the department on or before May 20, 2012;~~  
or 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 Health Standards Section by April 30, 2014, informing the department of its intent to operate a PDHC facility; and

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

~~6. 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 Health Standards Section by April 30, 2014, informing the department of its intent to operate a PDHC facility; and~~

~~\_\_\_\_\_ d. becomes licensed as a PDHC by the department no later than December 31, 2014.~~ 6. - 6.d. Repealed.

H. - H.2. ...

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004),

amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:136 (January 2015), LR 41:

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

**§12524. Outpatient Abortion Facilities**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1961 (August 2012), repealed LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821, or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert

Secretary