

## Chapter 93. Hospitals

### Subchapter A. General Provisions

#### §9301. Purpose

A. The purpose of the hospital laws, rules and regulations is to provide for the development, establishment and enforcement of standards for the care of individuals in hospitals and for the construction, maintenance and operation of hospitals which shall promote safe and adequate treatment of individuals in hospitals.

B. A hospital shall be licensed in accordance with state law, rules and regulations adopted and established by the state agency responsible for the licensing of hospitals.

#### C. Primarily Engaged

1. Except as provided in §9301.C.2, hospitals shall be *primarily engaged*, as defined by this Rule and determined by the Department of Health, in providing inpatient hospital services to inpatients, by or under the supervision of licensed physicians. Inpatient hospital services are services defined in this licensing rule and are provided to inpatients of the hospital as one of the following:

a. diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or

b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

2. Exemptions. The following licensed hospitals are not subject to the primarily engaged provisions and/or requirements of this Chapter:

a. a licensed hospital designated as a psychiatric hospital or a critical access hospital as defined by the Code of Federal Regulations;

b. a licensed hospital designated as a rural hospital as defined by R.S. 40:1189.3; and

c. a licensed hospital currently certified and enrolled as a Medicare/Medicaid certified hospital which has not been determined out of compliance with the federal definition of *primarily engaged*; if a hospital is currently Medicare/Medicaid certified, and has been determined to be currently meeting the federal definition of *primarily engaged*, it shall be exempt from compliance with the

following provisions in this section regarding primarily engaged.

3. In reaching a determination as to whether or not an entity is primarily engaged in providing inpatient hospital services to inpatients of a hospital, the Department of Health will evaluate the total facility operations and consider multiple factors, subject to paragraph C.4 below.

a. Total Facility Operations. In evaluating the total facility operations, the department will review the actual provision of care and services to two or more inpatients, and the effects of that care, to assess whether the care provided meets the needs of individual patients by way of patient outcomes.

b. Multiple Factors. The factors that the department will consider include, but are not limited to:

- i. the average daily census (ADC) of the main hospital and/or any off-site campus(es);
- ii. the average length of stay (ALOS) of patients at the main hospital and/or any off-site campus(es);
- iii. the number of off-site campus outpatient locations operated by the entity;
- iv. the number of provider-based emergency departments for the entity;
- v. the number of inpatient beds related to the size of the entity and the scope of the services offered;
- vi. the volume of outpatient surgical procedures compared to the inpatient surgical procedures (if surgical services are provided);
- vii. staffing patterns; and
- viii. patterns of ADC by day of the week.

4. Notwithstanding any other provision of this rule, an entity shall not be considered to be primarily engaged in providing inpatient hospital services to inpatients of a hospital if a main hospital or a main hospital's off-site campus(es) has an ADC of less than two, or an average length of stay of less than two. For purposes of determining whether a main hospital and its off-site campus(es) are primarily engaged, the ADC and the average length of stay shall be made independently for each entity.

5. Hospitals are not required to have a specific inpatient bed to outpatient bed ratio in order to meet the definition of primarily engaged.

a. If the hospital has an emergency department (ED), the number of hospital inpatient beds shall be greater than the number of ED beds, with a ratio of not less than 2:1.

D. Except as otherwise provided herein, hospitals shall provide directly or under arrangements the following professional departments, services, facilities and functions which are essential to establish whether a facility is primarily engaged in providing inpatient hospital services:

1. organization and general services;
2. nursing services;

3. pharmaceutical services;
4. radiological services;
5. laboratory services;
6. nutritional and therapeutic dietetic services;
7. medical record services;
8. quality assessment and improvement;
9. physical environment;
10. infection control;
11. respiratory care services.

E. Except as otherwise provided herein, hospitals may provide the following optional services directly or under arrangements:

1. surgical services;
2. anesthesia services;
3. nuclear medicine services;
4. outpatient services;
5. rehabilitation services;
6. psychiatric services;
7. obstetrical and newborn services;
8. pediatric services;
9. emergency services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2399 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1474 (October 2019), LR 46:1682 (December 2020).

### §9303. Definitions

A. The following definitions of selected terminology are used in connection with Chapter 93.

*Accredited*—the approval by the Joint Commission on Accreditation of Healthcare Organizations, American Osteopathic Association, or Det Norske Veritas.

*Administrator*—(see Chief Executive Officer).

*Anesthesiologist*—a physician, dentist, or osteopath physician, who has successfully completed an *approved* residency program in anesthesiology, or who is a diplomat of either the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or who was made a Fellow of the American College of Anesthesiology before 1972.

*Approved*—acceptable to the authority having jurisdiction.

*Authority Having Jurisdiction*—an organization, office, or individual responsible for approving equipment, an installation, or a procedure.

*Average Daily Census (ADC)*—calculated by adding the midnight daily census of the main hospital or its off-site campus(es), independent of one another, for each day of the 12-month period and dividing the total number by the number of days in the year. In calculating the ADC for purposes of determining whether an entity meets the requirements of primarily engaged, LDH may utilize a period of between three months and 12 months.

*Average Length of Stay (ALOS)*—the average of the number of inpatient days a person is in the main hospital or its off-site campus(es). ALOS is calculated by dividing the total inpatient days by the total discharges during a specified period of time, which results in an average number of days in the main hospital or its off-site campus(es) for each person admitted. In calculating ALOS, LDH may utilize a period of between three months and 12 months. For purposes of calculating the ALOS of the main hospital or its off-site campus(es), each facility shall be considered an independent entity.

*Certified Nurse Midwife*—an advanced practice registered nurse as defined by R.S. 37:913.

*Certified Registered Nurse Anesthetist*—an advanced practice registered nurse as defined by R.S. 37:913.

*Cessation of Business*—when a hospital stops providing services to the community.

*Chief Executive Officer (CEO)/Administrator*—the person responsible for the operation of the hospital commensurate with the authority conferred by the governing body.

*Clinical Nurse Specialist*—an advanced practice registered nurse as defined by R.S. 37:913.

*Crisis Receiving Center*—a specialty unit of a hospital that shall receive, examine, triage, refer or treat an individual who is experiencing a behavioral health crisis.

*Department*—Louisiana Department of Health.

*Food Delivery Services*—the transportation of the nutritional and therapeutic dietetic services by a food management company that is delivered to the hospital and served to the patients of the hospital.

*Food Management Company*—an off-site vendor who provides nutritional and therapeutic dietetic services to the hospital through a contractual agreement and that is required to meet the same standards for food and dietetic services as provided by the hospital directly.

*Governing Body*—the board of trustees, owner or person(s) designated by the owner with ultimate authority and responsibility (both moral and legal) for the management, control, conduct and functioning of the hospital.

*Hospital*—any institution, place, building, or agency, public or private, whether for profit or not, maintaining and operating facilities, 24 hours a day, seven days a week,

having a minimum of 10 licensed beds, having staff and equipment sufficient to meet patient needs, and providing hospital services, care and treatment for injured, disabled or sick persons who are admitted with the expectation that he or she will require hospital care that is expected to span at least two midnights. Except as otherwise noted in these licensing regulations, a hospital shall be primarily engaged in providing inpatient services to inpatients, by or under the supervision of licensed physicians. The term hospital does not include the following:

a. physicians' offices, clinics or programs where patients are not kept as bed patients for 24 hours or more;

b. nursing homes providing intermediate and/or skilled care as defined by and regulated under the provisions of R.S. 40:2009-2009.23;

c. persons, schools, institutions, or organizations engaged in the care and treatment of children with intellectual disabilities and which are required to be licensed by the provisions of the Developmental Disability Law, R.S. 28:451.1 et seq.;

d. hospitalization or care facilities maintained by the state at any of its penal or correctional institutions;

e. hospitalization or care facilities maintained by the federal government or agencies thereof;

f. infirmaries or clinics maintained solely by any college or university exclusively for treatment of faculty, students and employees; or

g. an urgent care clinic.

Note: Free standing emergency departments (or an entity that holds itself out to the public mainly as a free standing emergency department) shall not be licensed as a hospital.

*Hospital Record*—a compilation of the reports of the various clinical departments within a hospital, as well as reports from health care providers, as are customarily catalogued and maintained by the hospital medical records department. *Hospital records* include reports of procedures such as X-rays and electrocardiograms, but they do not include the image or graphic matter produced by such procedures, according to state law.

*Immediate and Serious Threat*—a crisis situation in which the health and safety of patients is at risk. It is a deficient practice which indicates the operator's inability to furnish safe care and services, although it may not have resulted in actual harm. The threat of probable harm is real and important and could be perceived as something which will result in potentially severe temporary or permanent injury, disability or death.

*Inpatient*—a person who admitted to a hospital with the status of inpatient for purposes of receiving hospital services with the expectation that he/she will require hospital care expected to span at least two nights and occupy a bed even though it is later determined that the patient can be discharged or transferred to another hospital and not actually use a hospital bed overnight. Persons in hospital observation status are not inpatients.

*Inpatient Hospital Services or Inpatient Service*—includes, but is not limited to, the following services provided to inpatients of the hospital as either: diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

- a. bed and board;
- b. 24-hour nursing services and other related services;
- c. use of hospital facilities;
- d. medical social services;
- e. drugs, biologicals, supplies, appliances, and equipment;
- f. certain other diagnostic or therapeutic services;
- g. medical or surgical services provided by certain interns or residents-in-training; and
- h. transportation services, including transport by ambulance.

*License Under Suspensive Appeal*—a full or provisional license against which the department has taken a licensing action and the hospital has filed an administrative appeal.

*Licensed Bed*—an adult and/or pediatric bed set up or capable of being set up within 24 hours in a hospital for the use of patients, based upon bedroom criteria expressed in these standards. Labor, delivery, newborn bassinets, emergency and recovery room beds are excluded.

*Licensed Independent Practitioner*—a person who is *approved* by his board for independent practice and who is *approved* by the medical staff and credentialed and *approved* by the Governing Board.

*Licensed Nuclear Medicine Technologist*—any person licensed to practice nuclear medicine technology by the Louisiana State Radiologic Technology Board of Examiners.

*Licensed Practical Nurse (LPN)*—a person licensed to practice practical nursing by the Louisiana State Board of Practical Nurse Examiners and is practicing within his/her scope of practice, training, experience, and competency.

*Licensed Radiation Therapy Technologist*—any person licensed to practice radiation therapy technology by the Louisiana State Radiologic Technology Board of Examiners.

*Licensed Radiographer*—any person licensed to practice general radiography by the Louisiana State Radiologic Technology Board of Examiners.

*Minor Alteration*—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction beyond that which existed prior to the alteration. This does not include any alteration to the "functionality" or original design of the construction. (For example, normal maintenance, re-roofing, painting, wallpapering, asbestos removal, and changes to the electrical and mechanical systems.)

*Monolithic Ceiling Construction*—a continuous membrane ceiling composed of plaster or gypsum wallboard, but not moveable or "lay-in" ceiling tiles.

*Neonatal*—newborn immediately succeeding birth and continuing through the first 28 days of life.

*New Construction*—any of the following started after March 1, 1995:

- a. new buildings to be used as a hospital;
- b. additions to existing buildings to be used as a hospital;
- c. conversions of existing buildings or portions thereof for use as a hospital;
- d. alterations other than *minor alterations* to an existing hospital;

*Nurse Practitioner*—an advanced practice registered nurse as defined by R.S. 37:913.

*Nurses Call System*—a system that audibly transmits calls electronically from its place of origin (the patient's bed) to the place of receipt (the nurses' station).

*Nutritional and Therapeutic Dietetic Services*—the provision of a nourishing, palatable, well-balanced diet that meets the patient's daily nutritional and special dietary needs in accordance with the licensed practitioner's prescribed plan of care, and taking into consideration the preferences of each patient.

*Observation Bed/Unit*—outpatient service in which patients are admitted for a period of no longer than 24 hours for observation. After 24 hours, the patient must be admitted, transferred or discharged. This outpatient unit must not provide acute care nursing. A registered nurse must be on site while there are patients in this unit.

*Office of the Secretary*—office of the person serving as the Secretary of the Department of Health.

*Off-Site Campus*—all premises on which hospital services (inpatient and/or outpatient) are provided and that are not adjoining to the main hospital buildings or grounds. Each off-site campus of a hospital shall be licensed as a part of the main hospital. An off-site campus shall be located within 50 miles of the main hospital campus.

a. Exception. If a state-owned or operated hospital ceases to do business and surrenders its license, the offsite campus(es) of that hospital which provided outpatient services may be licensed as an off-site campus(es) of another state-owned and/or operated hospital, provided that the off-site campus(es) is located within 100 miles of the main hospital campus of the state-owned and/or operated hospital.

*Organ*—a human kidney, liver, heart, lung or pancreas.

*Primarily Engaged*—a hospital is directly providing inpatient hospital services to inpatients, by or under the supervision of licensed physicians. Inpatient hospital services are services defined in this licensing rule and are provided to inpatients of the hospital as one of the following:

a. diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or

b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

Note: Having the capacity or potential to provide inpatient hospital services is not the equivalent of actually providing such care.

*Radiologist*—a doctor of medicine or osteopathy who is qualified by education and experience in radiology.

*Registered Dietitian*—a dietitian who is qualified based on registration by the Commission on Dietetic Registration of the American Dietetic Association and licensing by the Louisiana Board of Examiners in Dietetics and Nutrition.

*Registered Nurse*—any person licensed to practice nursing by the Louisiana State Board of Nursing.

*Unit Definition*—a licensed patient room.

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**§9311. Enforcement**

A. The department shall have the authority to interpret and enforce this Chapter 93 as authorized by and in accordance with the Health Care Facilities and Services Enforcement Act, R.S. 40:2199.

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