

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Hospital Licensing Standards  
Rural Emergency Hospitals  
(LAC 48:I.Chapter 93)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 93 as authorized by R.S. 36:254 and 40:2100-2115. 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, Bureau of Health Services Financing published an Emergency Rule which amended the provisions governing the licensing of hospitals to add an exemption to the primarily engaged requirements for rural emergency hospitals and adopt provisions for their designation and certification in order to allow rural hospitals with less than 50 beds to temporarily convert to rural emergency hospitals (*Louisiana Register*, Volume 49, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 7, 2023 Emergency Rule.

**Title 48  
PUBLIC HEALTH—GENERAL  
Part I. General Administration  
Subpart 3. Licensing and Certification**

**Chapter 93. Hospitals**

**Subchapter A. General Provisions**

**§9301. Purpose**

A. - B. ...

C. Primarily Engaged

1. - 1.b. ...

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

a. ...

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 ~~;~~ and

d. a licensed hospital designated as a rural emergency hospital, as established in Section 125 of the Consolidated Appropriations Act of 2021 and defined by the Code of Federal Regulations at 42 CFR 485.500 et seq., or its successor provisions, provided that such facility is in compliance with the provisions of Section 9310 of this Chapter.

C.3. - E.9. ...

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), LR 49:

**9303. Definitions**

A. The following definitions of selected terminology are used in connection with Chapter 93 [through Chapter 96](#).

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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 Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1475 (October 2019), LR 49:

**§9310. Rural Emergency Hospitals**

A. A rural emergency hospital (REH) is a hospital facility that converts from either a critical access hospital (CAH) or a rural hospital with less than 50 beds, as established in Section 125 of the Consolidated Appropriations Act of 2021. Only a CAH or rural hospital with less than 50 beds that was licensed by the department as of December 27, 2020 may convert to a REH.

B. A REH shall be in compliance with the federal regulations for REHs, namely 42 CFR 485.500 et seq., or successor regulations.

C. Pursuant to the federal requirements, the REH shall provide emergency department services and observation care, but shall not provide acute inpatient services except for the optional service of post-hospital extended care services furnished in a unit of the facility that is a distinct part skilled nursing unit.

1. The CAH or rural hospital that is converting to a REH shall contact the licensing section of the department to temporarily inactivate its licensed acute care hospital beds while it is designated and certified as a REH by the Medicare program.

2. If the facility loses its designation or certification as a REH or begins operating again as a CAH or

rural hospital, the facility shall contact the licensing section of the department to immediately re-activate its licensed acute care hospital beds.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

**§9311. Enforcement**

A. The department shall have the authority to interpret and enforce ~~this~~ Chapter 93 through Chapter 96 as authorized by and in accordance with the Health Care Facilities and Services Enforcement Act, R.S. 40:2199.

AUTHORITY NOTE: Promulgated in accordance with 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), amended by the Department of Health, Bureau of Health Services Financing, LR 29:2404 (November 2003), LR 49:

**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 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, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### **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 May 30, 2023.

### **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 May 10, 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 May 25, 2023 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 May 10, 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. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez

Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Stephen R. Russo

LDH Secretary