

**NOTICE OF INTENT**

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

**Behavioral Health Service Providers  
Licensing Standards  
(LAC 48:I.5603,5605, and 5606)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.5603 and §5605 and adopt §5606 as authorized by R.S. 36:254 and R.S. 40:2151-2162. 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 proposes to amend the provisions governing the licensing standards for behavioral health service providers in order to provide further definitions and provisions related to geographic service area and to update the facility need approval definition to align with current practice regarding the requirement for a letter of approval from the Facility Need Review Committee for applicants who seek to provide psychosocial rehabilitation or community psychiatric support and treatment services.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part 1. General Administration**

**Subpart 3. Licensing**

**Chapter 56. Behavioral Health Service Providers**

**Subchapter A. General Provisions**

**§5603. Definitions**

\* \* \*

*Facility Need Approval (FNA)*—the letter of approval from the Office of Behavioral Health which is required for licensure applicants for opioid treatment programs prior to applying for a BHS provider license or the letter of approval from the Facility Need Review Committee within the department which is required for licensure applicants for PSR or CPST services prior to applying for a BHS provider license.

\* \* \*

*Geographic Service Area*—the geographic area and location that a BHS provider's license allows services to be provided; for purposes of this licensing rule, geographic service area shall be as follows:

1. for providers operated by a human service district or authority, the geographic service area shall be the parishes and jurisdiction of the district or authority as defined in statute; and

2. for all other BHS providers, the geographic service area shall be the parish in which that provider has its business office and any contiguous parishes.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:

**Subchapter B. Licensing**

**§5605. General Provisions**

A. - B. ...

C. A BHS provider license shall:

1. - 4. ...

5. be invalid if sold, assigned, donated or transferred, whether voluntary or involuntary;

6. be posted in a conspicuous place on the licensed premises at all times;

7. be valid for only one geographic service area;

and

8. enable the BHS provider to render delineated behavioral health services within its geographic service area as defined in Section 5603.

D. - G.3. ...

4. The off-site shall operate within the same geographic service area, as defined in Section 5603, as the parent facility.

a. - b. Repealed.

G.5. - L.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:

**§5606. License Restrictions**

A. A BHS provider shall provide only those services or modules:

1. specified on its license; and

2. only to clients residing in the provider's designated geographic service area or at the provider's licensed location.

B. A BHS provider may apply for a waiver from the Health Standards Section (HSS) to provide home or community services to a client residing outside of the provider's designated geographic service area only under the following conditions:

1. A waiver may be granted by HSS if there is no other BHS provider in the client's service area that is licensed and that has the capacity to provide the required services to the client.

2. The provider shall submit a written waiver request to HSS.

3. The written waiver request shall be specific to one client and shall include the reasons for which the waiver is requested.

4. HSS shall approve or deny the waiver request within 30 days of receipt of the written waiver request, and shall provide written notice to the provider via mail or electronic transmission (email or facsimile).

5. The provider shall notify the client of HSS's decision.

C. The provider shall not provide services to a client residing outside of the provider's designated geographic service area unless the provider has received a written waiver request approval from HSS.

D. There is no appeal from a decision by HSS to deny a waiver request under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

#### **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 Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on February 29, 2020.

The department will conduct a public hearing at 9:30 a.m. on February 27, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. 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.

Rebekah E. Gee MD, MPH

Secretary



FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person  
Preparing  
Statement: Veronica Dent Dept.: Health

Phone: 342-3238 Office: Bureau of Health Services Financing

Return  
Address: PO Box 91030 Rule  
Title: Behavioral Health Service Providers

Baton Rouge, LA Licensing Standards

Date Rule  
Takes Effect: April 20, 2020

SUMMARY  
(Use complete sentences)

In accordance with Section 953 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 for FY 19-20. It is anticipated that \$756 will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections since the licensing fees, in the same amounts, will continue to be collected.

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

This proposed Rule amends the provisions governing the licensing standards for behavioral health service (BHS) providers in order to provide further definitions and provisions related to geographic service area and to update the facility need approval definition to align with current practice regarding the requirement for a letter of approval from the Facility Need Review Committee for applicants who seek to provide psychosocial rehabilitation or community psychiatric support and treatment services. Implementation of this proposed Rule will be beneficial to BHS providers by ensuring that the requirements for licensure are reflected accurately in the Louisiana Administrative Code. It is anticipated that the implementation of this proposed rule will have no costs or economic benefits to behavioral health service providers or small businesses in FY 19-20, FY 20-21 and FY 21-22.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello  
Signature of Agency Head or Designee

Cecile Castello, BSN, RN  
Deputy Assistant Secretary,  
LDH Health Standards Section  
Typed Name & Title of Agency Head or Designee

1-9-20  
Date of Signature

Evan Brasel  
Legislative Fiscal Officer or Designee

1/9/20  
Date of Signature



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

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 standards for behavioral health service (BHS) providers in order to provide further definitions and provisions related to geographic service area and update the facility need approval definition to align with current practice regarding the requirement for a letter of approval from the Facility Need Review Committee for applicants who seek to provide psychosocial rehabilitation or community psychiatric support and treatment services.

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing the licensing standards for behavioral health service providers in order to provide further definitions and provisions related to geographic service area and to update the facility need approval definition to align with current practice regarding the requirement for a letter of approval from the Facility Need Review Committee for applicants who seek to provide psychosocial rehabilitation or community psychiatric support and treatment services.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (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 for FY 19-20. In FY 19-20, \$756 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?

<b>COSTS</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>
Personal Services			
Operating Expenses	\$756		
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>	<b>\$756</b>		

**POSITIONS (#)**

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 19-20, \$756 will be spent for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

<b>SOURCE</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>
State General Fund	\$756		
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
<b>TOTAL</b>	<b>\$756</b>		

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 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.

This proposed rule has no known 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.

There is no known impact on the sources of local governmental unit funding.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

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

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

<b>REVENUE INCREASE/DECREASE</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
<b>TOTAL</b>			

\*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.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**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.

This proposed Rule amends the provisions governing the licensing standards for behavioral health service (BHS) providers in order to provide further definitions and provisions related to geographic service areas and update the facility need approval definition to align with current practice regarding the requirement for a letter of approval from the Facility Need Review Committee for applicants who seek to provide psychosocial rehabilitation or community psychiatric support and treatment services. Implementation of this proposed Rule will be beneficial to BHS providers by ensuring that the requirements for licensure are reflected accurately in the Louisiana Administrative Code.

- 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 the implementation of this proposed rule will have no costs or economic benefits to behavioral health service providers or small businesses in FY 19-20, FY 20-21 and FY 21-22.

**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.

This rule has no known effect on competition and employment.