

**NOTICE OF INTENT**

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

**Hospice Licensing Standards  
(LAC 48:I.8201 and 8217)**

The Department of Health, Bureau of Health Services Standards proposes to amend LAC 48:I.8201 and §8217 as authorized by R.S. 36:254 and R.S. 40:2181-2192. 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 hospice licensing to include the definition of a public health emergency (PHE) and add exemptions relating to the qualifications required for certain nursing staff hired during a PHE.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 82. Minimum Standards for Licensure of Hospice  
Agencies**

**Subchapter A. General Provisions**

**§8201. Definitions**

A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

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Public Health Emergency (PHE)-a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2257 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:588 (March 2018), LR 46:344 (March 2020), LR 47:

### **Subchapter B. Organization and Staffing**

#### **§8217. Personnel Qualifications/Responsibilities**

A. - G.7. ...

H. Licensed Practical Nurse (LPN). The LPN shall work under the direct supervision of a registered nurse (RN) and perform skilled nursing services as delegated by the ~~registered~~

~~nurse~~RN. The role of the LPN in hospice is limited to stable hospice patients.

1. Qualifications. ~~A licensed practical nurse~~An LPN shall be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions:

a. with at least two years of full time experience as an ~~L.P.N.~~LPN;

EXCEPTION: The requirement in 1.a is waived for any LPN that becomes employed by a hospice provider during a declared public health emergency (PHE) which extends statewide and continues for more than 90 consecutive days. Any LPN hired under this exception may continue to be employed by the same hospice provider after the PHE is over.

b. - c. ...

2. Responsibilities. The ~~L.P.N.~~LPN shall perform skilled nursing services under the supervision of ~~a registered nurse~~an RN, in a manner consistent with standards of practice, including but not limited to, such duties as follows:

a. observe, record, and report to the ~~registered nurse~~RN or director of nurses on the general physical and mental conditions of the patient;

b. ...

c. assist the physician and/or ~~registered~~  
~~nurse~~RN in performing specialized procedures;

d. - i. ...

3. Restrictions. An LPN shall not:

a. - f. ...

g. function as a supervisor of the nursing  
practice of any ~~registered nurse~~RN; or

H.3.h. - N.2.c. ...

O. Registered Nurse (RN). The hospice shall designate ~~a~~  
~~registered nurse~~an RN to coordinate the implementation of the  
POC for each patient.

1. Qualifications. A licensed ~~registered nurse~~RN  
shall be currently licensed to practice in the state of  
Louisiana with no restrictions:

a. have at least two years of full-time  
experience as ~~a registered nurse~~an RN. However, two years of  
full-time clinical experience in hospice care as ~~a licensed~~  
~~practical nurse~~an LPN may be substituted for the required two  
years of experience as ~~a registered nurse~~an RN; and

EXCEPTION: The requirement in 1.a is waived for any RN  
that becomes employed by a hospice provider during a  
declared PHE which extends statewide and continues for more  
than 90 consecutive days. Any RN hired under this exception

may continue to be employed by the same hospice provider  
after the PHE is over.

b. be an employee of the hospice. If the ~~registered nurse~~RN is employed by more than one agency, he/she must inform all employers and coordinate duties to assure quality service provision.

O.2. - R.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2262 (December 1998), LR 25:2409 (December 1999), LR 29:2801 (December 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 44:594 (March 2018), LR 47:

#### **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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will ensure that sufficient hospice staff are available to provide services during public health emergencies.

#### **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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 because it will ensure that sufficient hospice staff are available to provide services during public health emergencies.

**Small Business Statement**

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 a positive impact on small businesses, as described in R.S. 49:965.2 et seq. because it reduces the barriers to hiring during a public health emergency.

**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 a positive impact on the staffing level and qualifications required to provide the same level of service during a public health emergency, no direct or indirect cost to the provider to provide the same

level of service, but will have a positive impact on the provider's ability to provide the same level of service as described in HCR 170 because it reduces the barriers to hiring during a public health emergency.

#### **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 July 30, 2021.

#### **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 July 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on July 29, 2021 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 July 12, 2021. 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.

Dr. Courtney N. Phillips

Secretary