

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards Obstetrical and Newborn Services (LAC 48:I.9505)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9505 as authorized by R.S. 36:254 and 40:2109. 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 of hospitals in order to allow an exception to the requirement that the level of care on the neonatal intensive care unit match or exceed the level of obstetrical care for each level of obstetric service for any hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93

Subchapter S. Obstetrical and Newborn Services (Optional)

§9505. General Provisions

A. This Subchapter S requires that the level of care on the neonatal intensive care unit shall match or exceed the level of obstetrical care for each level of obstetric service, except for free standing children's hospitals and for any hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state. All hospitals with existing obstetrical and neonatal services shall be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services shall be required to be in compliance with this Subchapter S immediately upon promulgation.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 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 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:75 (January 2017), 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 April 29, 2020.

The department will conduct a public hearing at 9:30 a.m. on April 29, 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.

Stephen R. Russo, JD

Interim Secretary

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

Person

Preparing

Statement:

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Return

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Rule

Title: Hospital Licensing Standards

Baton Rouge, LA

Obstetrical and Newborn Services

Date Rule

Takes Effect: June 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 increase state costs by an indeterminable amount for FY 19-20, FY 20-21 and FY 21-22 due to the potential for increased reimbursement to a hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state. It is anticipated that \$432 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 not affect federal 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 of hospitals in order to allow an exception to the requirement that the level of care on the neonatal intensive care unit (NICU) match or exceed the level of obstetrical care for each level of obstetric service for any hospital which has a current cooperative endeavor agreement (CEA) linking the hospital to a public-private partnership with the state. Currently this exclusion only applies to free standing children's hospitals. Implementation of this proposed Rule will be beneficial to hospitals with current CEAs by excluding these providers from NICU level of care requirements as well. It is anticipated that the implementation of this proposed rule will not impact small businesses in FY 19-20, FY 20-21 and FY 21-22; however, there is a potential for increased reimbursement to a hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile D. 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

3-10-2020

Date of Signature

Evan Brasel, Staff Director

Legislative Fiscal Officer or Designee

3/10/20

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 of hospitals in order to allow an exception to the requirement that the level of care on the neonatal intensive care unit match or exceed the level of obstetrical care for each level of obstetric service for any hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state.

- 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, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of hospitals in order to allow an exception to the requirement that the level of care on the neonatal intensive care unit match or exceed the level of obstetrical care for each level of obstetric service for any hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state.

- 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.

It is anticipated that implementation of this proposed rule will increase state costs by an indeterminable amount for FY 19-20, FY 20-21 and FY 21-22 due to the potential for increased reimbursement to a hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state. In FY 19-20, \$432 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?

COSTS	FY 20	FY 21	FY 22
Personal Services			
Operating Expenses	Indeterminable	Indeterminable	Indeterminable
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	Indeterminable	Indeterminable	Indeterminable

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.

It is anticipated that implementation of this proposed rule will increase state costs by an indeterminable amount for FY 19-20, FY 20-21 and FY 21-22. In FY 19-20, \$432 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.

SOURCE	FY 20	FY 21	FY 22
State General Fund	Indeterminable	Indeterminable	Indeterminable
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
TOTAL	Indeterminable	Indeterminable	Indeterminable

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?

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

*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 of hospitals in order to allow an exception to the requirement that the level of care on the neonatal intensive care unit (NICU) match or exceed the level of obstetrical care for each level of obstetric service for any hospital which has a current cooperative endeavor agreement (CEA) linking the hospital to a public-private partnership with the state. Currently this exclusion only applies to free standing children's hospitals. Implementation of this proposed Rule will be beneficial to hospitals with current CEAs by excluding these providers from NICU level of care requirements as well.

- 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 not impact small businesses in FY 19-20, FY 20-21 and FY 21-22; however, there is a potential for increased reimbursement to a hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state.

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.