

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards (LAC 48:I.9336 and 9391)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48.I.9336 and amend §9391 as authorized by R.S. 36:254, R.S. 29:760 and R.S. 40:1061.9. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health to promulgate Rules to require inpatient health care facilities to allow visitation by members of the clergy during a declared public health emergency (PHE) whenever a request is made by a patient or resident. Act 425 of the 2021 Regular Session of the Louisiana Legislature directed the department to promulgate Rules to require hospitals that provide emergency treatment resulting from complications following an abortion to provide certain reports. In compliance with Acts 30 and 425, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of hospitals in order to: 1) allow visitation by members of the clergy during a declared PHE, 2) ensure proper electronic coding and tracking of post-abortion complications, 3) require

hospitals to submit a report on patients who present for post-abortion complication emergency treatment, and 4) ensure that hospital staff members attempt to obtain the required patient information prior to discharge.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter B. Hospital Organization and Services

§9336. Visitation by Members of the Clergy During a Declared Public Health Emergency

A. For purposes of this Section, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

B. A licensed hospital shall comply with any federal law, regulation, requirement, order, or guideline that is more restrictive than this Section regarding visitation in hospitals during a declared PHE issued by any federal government agency.

C. For purposes of this Section, clergy shall be defined as follows:

1. a minister, priest, preacher, rabbi, imam, Christian Science practitioner; or
2. other similar functionary of a religious organization; or

3. an individual reasonably believed so to be by the person consulting him.

D. The provisions of this Section regarding visitation by members of the clergy shall apply to all hospitals licensed by the Department of Health, except for a licensed hospital that is designated as a forensic facility.

E. Subject to compliance with the requirements of this Section, each hospital shall allow members of the clergy to visit patients of the hospital during a declared PHE when a patient, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. each hospital shall have a written policy and procedure addressing visitation by members of the clergy. A copy of the written policy and procedure shall be available, without cost, to the patient and his legal or designated representative, upon request. The hospital shall provide a link to an electronic copy of the policy and procedure to a member of the clergy, upon request.

2. a hospital's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the hospital, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of

transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual patient.

3. a hospital's policy and procedure on clergy visitation shall, at a minimum, require the following:

a. that the hospital give special consideration and priority for clergy visitation to patients receiving end-of-life care;

b. that a clergy member will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable;

c. that a clergy member not be allowed to visit a hospital patient if such clergy member has obvious signs or symptoms of an infectious agent or infectious disease, or if such clergy member tests positive for an infectious agent or infectious disease;

d. that a clergy member not be allowed to visit a hospital patient if the clergy member refuses to comply with the provisions of the hospital's policy and procedure or refuses to comply with the hospital's reasonable time, place, and manner restrictions;

e. that a clergy member be required to wear personal protective equipment as determined appropriate by the hospital, considering the patient's medical condition or clinical considerations. At the hospital's discretion, personal protective equipment may be made available by the hospital to clergy members;

f. that a hospital's policy and procedure include provisions for compliance with a state health officer (SHO) order limiting visitation during a declared PHE; and

g. that a hospital's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in hospitals during a declared public health emergency issued by any federal government agency that are more restrictive than this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 29:760.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

§9391. Registers and Reports

A. - A.8. ...

B. All hospitals licensed by the Department of Health that provide emergency treatment, due to complications following an abortion as defined in R.S. 40:1061.9 shall:

1. ensure proper electronic coding and tracking of post-abortion complications;

2. submit to the department, on a form provided by the department, a report on patients who present for post-abortion complication emergency treatment. The report shall:

a. be confidential;

b. be exempt from disclosure pursuant to the Public Records Law, R.S. 44:1 et seq.;

c. not contain the name or address of the patient;

d. include the following:

i. the date of the abortion;

ii. the name and address of the facility where the abortion was performed or induced;

iii. the nature of the abortion complication diagnosed or treated;

iv. the name and address of the facility where the post-abortion care was performed; and

3. ensure that a staff member of the hospital attempts to obtain the information required in this section from any patient prior to the patient's discharge from the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:1061.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2416 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

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 by establishing standards for clergy visitation when requested by patients during a declared public health emergency.

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, as described in R.S.
49:978.1 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 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 April 29, 2022.

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 April 11, 2022. 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, April 28, 2022 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 April 11, 2022. 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

**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: P.O. Box 91030 Rule
Title: Hospital Licensing Standards

Baton Rouge, LA Date Rule
Takes Effect: June 20, 2022

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 21-22. It is anticipated that \$972 will be expended in FY 21-22 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, in compliance with Act 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature and Act 425 of the 2021 Regular Session of the Louisiana Legislature, amends the provisions governing the licensing of hospitals in order to: 1) allow visitation by members of the clergy during a declared public health emergency (PHE), 2) ensure proper electronic coding and tracking of post-abortion complications, 3) require hospitals to submit a report on patients who present for post-abortion complication emergency treatment, and 4) ensure that hospital staff members attempt to obtain the required patient information prior to discharge. This proposed rule will be beneficial to patients by allowing clergy visits during a PHE. It is anticipated that implementation of this proposed rule will not result in costs or benefits to hospitals in FY 21-22, FY 22-23 and FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes
Signature of Agency Head or Designee

Tasheka Dukes, RN
Deputy Assistant Secretary
LDH Health Standards Section
Typed Name & Title of Agency Head or Designee

3/7/2022
Date of Signature

Evan Brassel, Interim Deputy Fiscal Officer
Legislative Fiscal Officer or Designee

3/8/22
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, in compliance with Act 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature and Act 425 of the 2021 Regular Session of the Louisiana Legislature, amends the provisions governing the licensing of hospitals in order to: 1) allow visitation by members of the clergy during a declared public health emergency (PHE), 2) ensure proper electronic coding and tracking of post-abortion complications, 3) require hospitals to submit a report on patients who present for post-abortion complication emergency treatment, and 4) ensure that hospital staff members attempt to obtain the required patient information prior to discharge. This proposed rule will be beneficial to patients by allowing clergy visits during PHE.

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

Act 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health to promulgate Rules to require inpatient health care facilities to allow visitation by members of the clergy during a declared public health emergency (PHE) whenever a request is made by a patient or resident. Act 425 of the 2021 Regular Session of the Louisiana Legislature directed the department to promulgate Rules to require hospitals that provide emergency treatment resulting from complications following an abortion to provide certain reports. In compliance with Acts 30 and 425, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of hospitals in order to: 1) allow visitation by members of the clergy during a declared PHE, 2) ensure proper electronic coding and tracking of post-abortion complications, 3) require hospitals to submit a report on patients who present for post-abortion complication emergency treatment, and 4) ensure that hospital staff members attempt to obtain the required patient information prior to discharge.

- 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 21-22. In FY 21-22, \$972 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 22	FY 23	FY 24
Personal Services			
Operating Expenses	\$972	\$0	\$0
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	\$972	\$0	\$0
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 21-22, \$972 will be spent for the state's administrative expense for promulgation of this proposed and final rule.

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

SOURCE	FY 22	FY 23	FY 24
State General Fund	\$972	\$0	\$0
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
TOTAL	\$972	\$0	\$0

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 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?

<u>REVENUE INCREASE/DECREASE</u>	<u>FY 22</u>	<u>FY 23</u>	<u>FY 24</u>
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
<u>TOTAL</u>			

*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, in compliance with Act 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature and Act 425 of the 2021 Regular Session of the Louisiana Legislature, amends the provisions governing the licensing of hospitals in order to: 1) allow visitation by members of the clergy during a declared public health emergency (PHE), 2) ensure proper electronic coding and tracking of post-abortion complications, 3) require hospitals to submit a report on patients who present for post-abortion complication emergency treatment, and 4) ensure that hospital staff members attempt to obtain the required patient information prior to discharge. This proposed rule will be beneficial to patients by allowing clergy visits during a PHE.

- 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 implementation of this proposed rule will not result in costs or benefits to hospitals in FY 21-22, FY 22-23 and FY 23-24.

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.