

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards (LAC 48:I.9305)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9305 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 promulgated an Emergency Rule which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and to update provisions governing the clinical operation of hospitals (*Louisiana Register*, Volume 49, Number 3). This proposed Rule is being promulgated to continue the provisions of the February 20, 2023 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9305. Licensing Process

A. - M.2. ...

N. Plan Review. A letter to the Department of Health, Division of Engineering and Architectural Services, shall accompany the floor plans with a request for a review of the hospital plans. The letter shall include the types of services offered, number of licensed beds and licensed patient rooms, geographical location, and whether it is a relocation, renovation, and/or new construction. A copy of this letter is to be sent to the Hospital Program Manager.

1. - 2.b. ...

3. Waivers

a. The secretary of the department may, within his/her sole discretion, grant waivers to building and construction guidelines or requirements and to provisions of the licensing rules involving the clinical operation of the hospital. The facility shall submit a waiver request in writing to the licensing section of the department on forms prescribed by the department.

b. In the waiver request, the facility shall demonstrate the following:

i. how patient health, safety, and welfare will not be compromised if such waiver is granted;

ii. how the quality of care offered will not be compromised if such waiver is granted; and

iii. the ability of the facility to completely fulfill all other requirements of the service, condition, or regulation.

c. The licensing section of the department shall have each waiver request reviewed by an internal waiver review committee. In conducting such internal waiver review, the following shall apply:

i. the waiver review committee may consult subject matter experts as necessary, including the Office of State Fire Marshal; and

ii. the waiver review committee may require the facility to submit risk assessments or other documentation to the department.

d. The director of the licensing section of the department shall submit the waiver review committee's recommendation on each waiver to the secretary, or the secretary's designee, for final determination.

e. The department shall issue a written decision of the waiver request to the facility. The granting of any waiver may be for a specific length of time.

f. The written decision of the waiver request is final. There is no right to an appeal of the decision of the waiver request.

g. If any waiver is granted, it is not transferrable in an ownership change or change of location.

h. Waivers are subject to review and revocation upon any change of circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised.

i. Any waivers granted by the department prior to January 15, 2023, shall remain in place, subject to any time limitations on such waivers; further, such waivers shall be subject to the following:

i. such waivers are subject to review or revocation upon any change in circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised; and

ii. such waivers are not transferrable in an ownership change or change of location.

O. - P. ...

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 16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November

2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, 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 1, 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 April 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 April 27, 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 April 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.

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: February 20, 2023

SUMMARY
(Use complete sentences)

In accordance with Section 961 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 22-23. It is anticipated that \$756 will be expended in FY 22-23 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 as this measure has no impact on licensing fees.

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

This proposed rule continues the provisions of the February 20, 2023 Emergency Rule, which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and grants a secondary option related to the clinical operation of hospitals. It is anticipated that implementation of this proposed rule will not result in costs to hospitals in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the requirements for granting waivers are accurately reflected in the *Louisiana Administrative Code*.

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

3/6/2023
Date of Signature

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

3/7/23
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 continues the provisions of the February 20, 2023 Emergency Rule, which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and grants a secondary option related to the clinical operation of hospitals.

- 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 promulgated an Emergency Rule which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and grants a secondary option related to the clinical operation of hospitals (*Louisiana Register*, Volume 49, Number 3). This proposed Rule is being promulgated to continue the provisions of the February 20, 2023 Emergency Rule.

- 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 22-23. In FY 22-23, \$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?

COSTS	FY 23	FY 24	FY 25
Personal Services			
Operating Expenses	\$756	\$0	\$0
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	\$756	\$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 22-23, \$756 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 23	FY 24	FY 25
State General Fund	\$756	\$0	\$0
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
TOTAL	\$756	\$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?

REVENUE INCREASE/DECREASE	FY 23	FY 24	FY 25
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 continues the provisions of the February 20, 2023 Emergency Rule, which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and grants a secondary option related to the clinical operation of hospitals.

- 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 to hospitals in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the requirements for granting waivers are accurately reflected in the *Louisiana Administrative Code*.

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.