

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Facility Need Review
Major Alterations
(LAC 48:I.12537)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.12537 in the Medical Assistance Program as authorized by R.S. 36:254. 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 and Hospitals, Bureau of Health Services Financing amended the provisions governing the Facility Need Review Program (FNR) in order to remove outpatient abortion facilities from the FNR process, and to correct the formatting of §12503 as a result of the promulgation of a January 20, 2015 Rule governing the FNR process (*Louisiana Register*, Volume 41, Number 10).

The department has now determined that it is necessary to amend the provisions governing the FNR program in order to provide exceptions pertaining to the expiration of facility need review approvals for beds that are de-licensed and decertified when facilities undergo major alterations.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter F. Exception Criteria for Bed Approvals

§12537. Temporary Inactivation Due to Major Alterations.

A. A licensed nursing facility, ICF/ID or Level IV ARCP which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of the facility's facility need review (FNR) bed approvals provided that:

1. The nursing facility, ICF/ID or Level IV ARCP submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its FNR bed approvals. Such written request shall include the following:

a. a statement that the nursing facility, ICF/ID or Level IV ARCP is undergoing major alterations to ensure or enhance the health, safety and welfare of the residents;

b. a statement that the major alterations to the nursing facility, ICF/ID or Level IV ARCP will cause a certain number of beds to be de-licensed and decertified;

c. an attestation that the alterations are the sole causal factor in the request for temporary inactivation of the FNR bed approvals;

d. the anticipated start date of the temporary inactivation of the FNR bed approvals;

e. the anticipated end date of the temporary inactivation of the FNR bed approvals; and

f. the number of FNR bed approvals requested to be inactivated temporarily.

2. Upon receiving a completed written request by a facility for temporary inactivation of a certain number of FNR bed approvals, the department shall review the request to determine whether the request satisfies the requirements of this section. If the requirements of this section are met, the department shall issue a notice of temporary inactivation of a certain number of the facility's FNR bed approvals.

3. Upon completion of the major alterations, the facility shall submit to the department a completed written request to reinstate the FNR bed approvals that were inactivated due to the major alterations to the facility.

Note: The FNR bed approvals capacity, after major alterations are completed, shall not exceed the FNR bed approvals capacity of the nursing facility, ICF/ID or Level IV ARCP at the time of the request to temporarily inactivate a certain number of its FNR bed approvals prior to the major alterations.

4. The provisions of this Subsection shall not apply to a nursing facility, ICF/ID or Level IV ARCP which has voluntarily surrendered its license or has voluntarily disenrolled the facility's beds from Medicaid.

5. There shall be no effect upon the Medicaid reimbursement rate of a nursing facility or an ICF/ID that is undergoing major alterations pursuant to this rule during the period of the inactivation of the FNR approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

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.

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.

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.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, June 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

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Return
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Rule Title: Facility Need Review
Major Alterations

Date Rule Takes Effect: August 20, 2016

SUMMARY

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 summary statements, based on the attached worksheets, 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 the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$540 (SGF) will be expended in FY 15-16 for the state's administrative expense for the 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 OR NON-GOVERNMENTAL GROUPS (Summary)

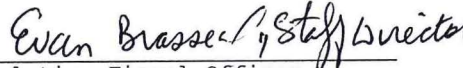
This proposed Rule amends the provisions governing the Facility Need Review (FNR) program in order to provide exceptions pertaining to the expiration of FNR approvals for beds that are delicensed and decertified when facilities undergo major alterations. It is anticipated that the implementation of this proposed rule will have no economic costs, but will be beneficial to nursing facilities, ICFs/ID or Level IV ARCPs by allowing them to temporarily inactivate a certain number of licensed beds while the facility undergoes major alterations without having to undergo the FNR process again when the beds are placed back into use.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Agency Head
or Designee



Legislative Fiscal Officer
or Designee

Cecile Castello,
Health Standards Section Director
Typed name and Title of
Agency Head or Designee

5/10/16
Date of Signature


DHA/BHSF Budget Head

05/10/16
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 deliberations 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 FNR program in order to provide exceptions pertaining to the expiration of facility need review approvals for beds that are de-licensed and decertified when facilities undergo major alterations.

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

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Facility Need Review Program (FNR) in order to remove outpatient abortion facilities from the FNR process and to correct the formatting of §12503 as a result of the promulgation of a January 20, 2015 Rule governing the FNR process (Louisiana Register, Volume 41, Number 10). The department has now determined that it is necessary to amend the provisions governing the FNR program in order to provide exceptions pertaining to the expiration of facility need review approvals for beds that are de-licensed and decertified when facilities undergo major alterations.

- 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 the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$540 will be expended in FY 15-16 for the state's administrative expense for the 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) _____ If yes, attach documentation.
(b) _____ If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 15-16	FY 16-17	FY 17-18
PERSONAL SERVICES			
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$540	\$0	\$0

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 15-16, \$540 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 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND	\$540	\$0	\$0
SELF-GENERATED			
FEDERAL FUND	\$0	\$0	\$0
OTHER (Specify)			
Total	\$540	\$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 THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment 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.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

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

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

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

REVENUE INCREASE/DECREASE	FY 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
Total			

**Specify the particular fund being impacted*

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

This proposed Rule amends the provisions governing the FNR program in order to provide exceptions pertaining to the expiration of facility need review approvals for beds that are de-licensed and decertified when facilities undergo major alterations.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

It is anticipated that the implementation of this proposed rule will have no economic costs, but will be beneficial to nursing facilities, ICFs/ID or Level IV ARCPS by allowing them to temporarily inactivate a certain number of licensed beds while the facility undergoes major alterations without having to undergo the FNR process again when the beds are placed back into use.

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.