

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Ambulatory Surgical Centers
Licensing Standards
(LAC 48:I.4541)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4541 as authorized by R.S. 36:254 and R.S. 40:2131-2141. 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 a Notice of Intent which proposed to amend the provisions governing the licensing of ambulatory surgical centers (ASCs) in order to: 1) add the definition of optometry; 2) exempt ASC medical staff qualified as optometrists and practicing optometry from the requirement to also be staff members or have admitting privileges at local hospitals; and 3) require ASCs to have a written procedure for the immediate transfer of patients requiring emergency services to a local facility that meets the federal requirements for payment and to provide the facility with a notice of operations and patient population served (*Louisiana Register*, Volume 47, Number 12). As a result of comments received, the department determined that it

was necessary to abandon the Notice of Intent published in the December 20, 2021 edition of the *Louisiana Register*.

The department now proposes to promulgate a revised Notice of Intent to amend the provisions governing the licensing of ASCs in order to update the requirements for transfer agreements from ASCs to licensed hospitals in the event of an emergency that requires hospital admission.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

Subchapter C. Admissions, Transfers and Discharges

§4541. Transfer Agreements and Patient Transfers

A. The ASC shall secure a written transfer agreement with at least one [licensed](#) hospital in the community. A transfer agreement shall serve as evidence of a procedure whereby patients can be transferred to a hospital should an emergency arise which would necessitate hospital admission.

~~1. If a written transfer agreement is established with a hospital in the community, medical staff at the ASC shall still be required to adhere to the provisions of §4541.B and C.~~

~~2. If the ASC is not able to secure a written transfer agreement, the ASC's compliance with §4541.C shall~~

~~substantiate the ASC's capability to obtain hospital care for a patient if the need arises~~1. - 2. Repealed.

B. ~~Each member of the medical staff~~The admitting physician of the ASC,~~including physicians who practice under a use agreement,~~ shall be ~~a member in good standing on the responsible for effecting the safe and immediate transfer of patients from the ASC to a hospital when, in his/her medical staff of at least one hospital in the community and that hospital shall be licensed by the department. Members of opinion,~~ hospital ~~staff shall be granted surgical privileges compatible with privileges granted by the hospital for that physician care is indicated.~~care is indicated.

C. The ~~admitting physician of the ASC shall be~~is responsible for ~~effecting the safe and immediate~~developing written policies and procedures for the immediate safe transfer of patients ~~from the ASC to a~~ and coordination of admission into a licensed inpatient hospital when,~~in his/her medical opinion, hospital care is indicated~~ patients require emergency medical care beyond the capabilities of the ASC. The written policy shall include, but is not limited to:

1. identification of the ASC personnel who shall be responsible for the coordination of admission into an inpatient facility;

2. procedures for securing inpatient services;

3. procedures for the procurement of pertinent and necessary copies of the patient's medical record that will be sent with the transferring patient so that the information may be included in the patient's inpatient medical record;

4. identification of a minimum of one licensed inpatient hospital, via a current written transfer agreement;
and

5. a requirement that the ASC will periodically provide the local inpatient hospital facility with written notice of its operations and patient population served.

~~D. The ASC is responsible for developing written policies and procedures for the safe transfer of patients and coordination of admission, when necessary, into an inpatient facility. The written policy shall include, but is not limited to:~~

~~1. identification of the ASC personnel who shall be responsible for the coordination of admission into an inpatient facility;~~

~~2. procedures for securing inpatient services; and~~

~~3. procedures for the procurement of pertinent and necessary copies of the patient's medical record that will be sent with the transferring patient so that the information may be included in the patient's inpatient medical record.~~ D. - D.3.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1742 (September 2017), amended 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 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 June 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 June 9, 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, June 29, 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 June 9, 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