

**NOTICE OF INTENT**

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

**Facility Need Review  
Outpatient Abortion Facilities  
(LAC 48:I.Chapter 125)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.12501 and §12503 and to repeal §12524 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 Rule governing the Facility Need Review Program (FNR) in order to adopt provisions for the inclusion of outpatient abortion facilities in the FNR process (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Facility Need Review Program to remove outpatient abortion facilities from the FNR process (*Louisiana Register*, Volume 41, Number 7). The department subsequently amended the provisions of the July 1, 2015 Emergency Rule in order 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). This

proposed Rule is being promulgated to continue the provisions of the October 20, 2015 Emergency Rule.

**Title 48**

**PUBLIC HEALTH—GENERAL**  
**Part I. General Administration**  
**Subpart 5. Health Planning**

**Chapter 125. Facility Need Review**

**Subchapter A. General Provisions**

**§12501. Definitions**

A. ...

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*Outpatient abortion facility-Repealed.*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:135 (January 2015), LR 42:

**§12503. General Information**

A. - B. ...

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...

4. hospice providers or inpatient hospice facilities;  
and

5. pediatric day health care facilities.

6. Repealed.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs/ID, ADHC providers, hospice providers, and pediatric day health care centers that meet one of the following conditions:

1. - 3. ...

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012; or

5. pediatric day health care providers that were licensed by the department before March 1, 2014, or an entity that meets all of the following requirements:

a. has a building site or plan review approval for a PDHC facility from the Office of State Fire Marshal by

March 1, 2014;

b. has begun construction on the PDHC facility by April 30, 2014, as verified by a notarized affidavit from a licensed architect submitted to the department, or the entity had a fully executed and recorded lease for a facility for the specific use as a PDHC facility by April 30, 2014, as verified by a copy of a lease agreement submitted to the department;

c. submits a letter of intent to the department's Health Standards Section by April 30, 2014, informing the department of its intent to operate a PDHC facility; and

d. becomes licensed as a PDHC by the department no later than December 31, 2014.

6. - 6.d. Repealed.

H. - H.2. ...

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended

LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:136 (January 2015), LR 42:

**Subchapter B. Determination of Bed, Unit, Facility or Agency Need**

**§12524. Outpatient Abortion Facilities**

Repealed.

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 38:1961 (August 2012), repealed 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, November 25, 2015 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.

Kathy H. Kliebert

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person

Preparing

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Rule Title: Facility Need Review

Outpatient Abortion Facilities

Date Rule Takes Effect: July 1, 2015

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 \$648 (SGF) will be expended in FY 15-16 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 have a minimal reduction in revenue collections due to the loss of facility need review fees paid to the Department by outpatient abortion facilities.*

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

*This proposed rule, which continues the provisions of the July 1, 2015 and October 20, 2015 emergency rules, amends the provisions governing the Facility Need Review (FNR) program in order to remove outpatient abortion facilities from the FNR process. It is anticipated that the implementation of this proposed rule will have no economic cost, but may be beneficial to outpatient abortion facilities in FY 15-16, FY 16-17, and FY 17-18 by avoiding the cost of the \$200 fee associated with the FNR process since these facilities will no longer have to undergo the process.*

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

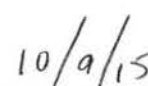
*This rule has no known effect on competition and employment.*




Signature of Agency Head  
or Designee

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

  
Evan Brasseaux, Staff Director  
Legislative Fiscal Officer  
or Designee

  
10/9/15  
Date of Signature

  
DHH/BHSF Budget Head

  
10/8/15  
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, which continues the provisions of the July 1, 2015 and October 20, 2015 emergency rules, amends the provisions governing the Facility Need Review (FNR) program in order to remove outpatient abortion facilities from the FNR process.*

- 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 Rule governing the Facility Need Review Program (FNR) in order to adopt provisions for the inclusion of outpatient abortion facilities in the FNR process (Louisiana Register, Volume 38, Number 12).*

*The department promulgated an Emergency Rule which amended the provisions governing the Facility Need Review Program to remove outpatient abortion facilities from the FNR process (Louisiana Register, Volume 41, Number 7). The department subsequently amended the provisions of the July 1, 2015 Emergency Rule in order 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). This proposed Rule is being promulgated to continue the provisions of the October 20, 2015 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 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 \$648 will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final.*

- (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	\$648	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$648</b>	<b>\$0</b>	<b>\$0</b>

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, \$648 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	\$648	\$0	\$0
SELF-GENERATED			
FEDERAL FUND			
OTHER (Specify)			
<b>Total</b>	<b>\$648</b>	<b>\$0</b>	<b>\$0</b>

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	reduction	reduction	reduction
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
<b>Total</b>	<b>reduction</b>	<b>reduction</b>	<b>reduction</b>

*\*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.

*It is anticipated that the implementation of this proposed rule will have a minimal reduction in revenue collections due to the loss of facility need review fees paid to the Department by outpatient abortion facilities.*

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, which continues the provisions of the July 1, 2015 and October 20, 2015 emergency rules, amends the provisions governing the Facility Need Review (FNR) program in order to remove outpatient abortion facilities from the FNR process.*

- 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 cost, but may be beneficial to outpatient abortion facilities in FY 15-16, FY 16-17, and FY 17-18 by avoiding the cost of the \$200 fee associated with the FNR process since these facilities will no longer have to undergo the process.*

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.*