

## **NOTICE OF INTENT**

### **Department of Health Bureau of Health Services Financing**

#### **Nurse Licensure Compact (LAC 48:I.Chapter 88)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 88 as authorized by R.S. 36:254 and R.S. 37:1018-1020. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 577 of the 2018 Regular Session of the Louisiana Legislature enacted R.S. 37:1018-1020, which directed the Department of Health (LDH) to establish provisions governing the Nurse Licensure Compact, a multi-state compact for nurses to obtain multi-state license privileges, in order to decrease redundancies in the consideration and issuance of nursing licenses, and to provide an opportunity for interstate practice by nurses who meet LDH's uniform licensure requirements. In compliance with the requirements of Act 577, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing the Nurse Licensure Compact.

#### **Title 48.**

#### **PUBLIC HEALTH-GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

#### **Chapter 88. Nurse Licensure Compact**

**§8801. Definitions**

*Department*-the Louisiana Department of Health (LDH), the department.

*Health Standards Section (HSS)*-the section in LDH responsible for licensing health care facilities and agencies, certifying facilities and agencies applying for participation in the Medicaid (title XIX) and Medicare (title XVIII) programs, and conducting surveys and inspections.

*Home State*-the party state which is the nurse's primary state of residence.

*Licensing Board*-a party state's regulatory body responsible for issuing nurse licenses.

*Multi-State License*-a license to practice as a registered nurse (RN) or a licensed practical nurse/licensed vocational nurse (LPN/LVN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multi-state licensure privilege.

*Multi-State Licensure Privilege*-a legal authorization associated with a multistate license permitting the practice of nursing as either an RN or LPN/LVN in a remote state.

*Nurse*-registered nurse (RN) or licensed practical nurse/licensed vocational nurse (LPN/LVN), as defined by each party state's practice laws.

*Nurse Licensure Compact (NLC)*-Part V of Chapter 11 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:1018 through 1020.

*Party State*-any state that has adopted the Nurse Licensure Compact.

*Remote State*-a party state other than the home state.

*Single-State License*-a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multi-state licensure privilege to practice in any other party state.

*State*-a state, territory or possession of the United States and the District of Columbia.

*State Practice Laws*-a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice and create the methods and grounds for imposing discipline. State practice laws do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1018-1020.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

**§8803. General Administration**

A. Pursuant to R.S. 37:1018-1020 et seq., all health care entities licensed and/or certified by the Health Standards Section of LDH including, but not limited to, those specified in §8803.B.1-25 shall:

1. register with the National Council of State Boards of Nursing's (NCSBN) Nursys e-Notify system; and
2. provide required nurse data for collection of aggregate data from employees on the number and geographic representation of registered nurses (RNs) and licensed practical nurses/licensed vocational nurses (LPNs/LVNs) employed in Louisiana practicing pursuant to a multi-state or single state license, as determined by the Louisiana State Board of Nursing (LSBN) and the Louisiana State Board of Practical Nurse Examiners (LSBPNE).

B. Once registered, the licensed facility/agency, the LSBN and the LSPNE shall have real-time access to nurse licensure verification including expirations, upcoming renewals and discipline from all nurse licensure compact states. The real-time notifications shall be delivered to employer inboxes automatically and immediately available to the requisite nursing boards prior to an RN or LPN/LVN furnishing any such services in one or more of the following licensed and/or certified health care facilities and agencies:

1. nursing facilities (NF);

2. home health agencies (HHA);
3. hospice agencies;
4. emergency medical transportation services (EMTS);
5. behavioral health services (BHS) providers;
6. home and community-based services (HCBS) providers;
7. adult day health care (ADHC) providers;
8. intermediate care facility for people with developmental disabilities (ICF-DD);
9. adult residential care providers (ARCP);
10. hospitals;
11. rural health clinics (RHC);
12. outpatient physical therapy (OPT) clinics;
13. comprehensive outpatient rehabilitation facilities (CORF);
14. pediatric day health care (PDHC) facilities;
15. end stage renal disease (ESRD) clinics;
16. federally qualified health centers (FQHC);
17. forensic supervised transitional residential and aftercare (FSTRA) facilities;
18. psychiatric residential treatment facilities (PRTF);
19. therapeutic group homes (TGH);
20. ambulatory surgical centers (ASC);

21. outpatient abortion facilities (OAF);
22. support coordination agencies (SCA);
23. adult brain injury (ABI) facilities;
24. community mental health centers (CMHC); and
25. portable x-ray providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1018-1020.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

**§8805. Licensed Facility and Agency Requirements**

A. In accordance with federal, state and local laws, rules and regulations, agencies and facilities licensed by the department shall comply with state nurse licensure laws to ensure the health and safety of the public.

B. The governing body of the health care facility or agency licensed by the department shall be responsible for registering with the NCSBN's Nursys e-Notify system (or other system as designated by the state board of nursing).

C. Facilities and agencies licensed by the department as health care providers shall report data to the applicable state nurse licensing board on the number and geographic representation of RNs and LPNs/LVNs employed by the licensed health care facility or agency practicing pursuant to a multi-state license, as determined by the respective licensing board.

D. The report shall be completed prior to an RN or LPN/LVN furnishing any nursing services in this state. Failure of an employer to submit this data to the board shall not be a basis for disciplinary action against or restriction of the multi-state license of any RN or LPN/LVN.

E. The governing body of the licensed health care facility or agency shall be responsible for the development, implementation and enforcement of policies and procedures related to §8805.A-D, as applicable to the facility or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1018-1020.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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 Thursday, November 29, 2018 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

Person

Preparing

Statement: Veronica Dent  
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Dept.: Health  
Office: Bureau of Health Services  
Financing

Return P.O. Box 91030  
Address: Baton Rouge, LA

Rule Title: Nurse Licensure Compact

Date Rule Takes Effect: January 20, 2019

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 implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. It is anticipated that \$972 will be expended in FY 18-19 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 the Department's revenue collections, but will increase revenue collections by the Louisiana State Board of Nursing and the Louisiana State Board of Practical Nurse Examiners by an indeterminable amount due to the collection of licensing fees for individuals that opt to practice nursing under the multi-state licensing compact.*

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

*This proposed rule, in compliance with Act 577 of the 2018 Regular Session of the Louisiana Legislature, adopts provisions governing the Nurse Licensure Compact, a multi-state compact for nurses to obtain multi-state license privileges, in order to decrease redundancies in the consideration and issuance of nursing licenses and to provide an opportunity for interstate practice by nurses who meet the Department of Health's uniform licensure requirements. This proposed rule may result in economic costs to providers for additional background checks required by the Louisiana State Board of Nursing (LSBN) and the Louisiana State Board of Practical Nurse Examiners (LSBPNE) for nurses that seek to practice under a multi-state license issued by a state with less rigorous background check standards than Louisiana, but will be beneficial by providing clear Nurse Licensure Compact participation requirements. It is anticipated that implementation of this proposed rule may result in indeterminable costs to providers of nursing services in FY 18-19, FY 19-20 and FY 20-21, since there is no way to determine the number of nurses that will elect to participate, and any revenue generated from additional background checks is speculative and will be used to defray any expenses incurred by the LSBN or the LSBPNE while performing these checks.*

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

*Cecile Castello*  
Signature of Agency Head  
or Designee

*Evan Brasser, Staff Director*  
Legislative Fiscal Officer  
or Designee

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

10/9/18  
Date of Signature

*Bhaskar Patel*  
LDH/BHSF Budget Head

10/09/18  
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, in compliance with Act 577 of the 2018 Regular Session of the Louisiana Legislature, adopts provisions governing the Nurse Licensure Compact, a multi-state compact for nurses to obtain multi-state license privileges, in order to decrease redundancies in the consideration and issuance of nursing licenses and to provide an opportunity for interstate practice by nurses who meet the Department of Health's uniform licensure requirements.*

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

*Act 577 of the 2018 Regular Session of the Louisiana Legislature enacted R.S. 37:1018-1020 which directed the Department of Health (LDH), to establish provisions governing the Nurse Licensure Compact, a multi-state compact for nurses to obtain multi-state license privileges, in order to decrease redundancies in the consideration and issuance of nursing licenses and to provide an opportunity for interstate practice by nurses who meet LDH's uniform licensure requirements. In compliance with the requirements of Act 577, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing the Nurse Licensure Compact.*

- (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 18-19. It is anticipated that \$972 will be expended in FY 18-19 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) ☐ 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 18-19	FY 19-20	FY 20-21
PERSONAL SERVICES			
OPERATING EXPENSES	\$972	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$972</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 18-19, \$972 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 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND	\$972	\$0	\$0
SELF-GENERATED	Increase	Increase	Increase
FEDERAL FUND			
OTHER (Specify)			
<b>Total</b>	<b>Increase</b>	<b>Increase</b>	<b>Increase</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 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND			
AGENCY SELF-GENERATED	Increase	Increase	Increase
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
Total	Increase	Increase	Increase

\*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, in compliance with Act 577 of the 2018 Regular Session of the Louisiana Legislature, adopts provisions governing the Nurse Licensure Compact, a multi-state compact for nurses to obtain multi-state license privileges, in order to decrease redundancies in the consideration and issuance of nursing licenses and to provide an opportunity for interstate practice by nurses who meet the Department of Health's uniform licensure requirements.*

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

*This proposed rule may result in economic costs to providers for additional background checks required by the Louisiana State Board of Nursing (LSBN) and the Louisiana State Board of Practical Nurse Examiners (LSBPNE) for nurses that seek to practice under a multi-state license issued by a state with less rigorous background check standards than Louisiana, but will be beneficial by providing clear Nurse Licensure Compact participation requirements. It is anticipated that implementation of this proposed rule may result in indeterminable costs to providers of nursing services in FY 18-19, FY 19-20 and FY 20-21, since there is no way to determine the number of nurses that will elect to participate, and any revenue generated from additional background checks is speculative and will be used to defray any expenses incurred by the LSBN or the LSBPNE while performing these checks.*

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.*