

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Expedited Licensing Process for Healthcare Facilities and Providers (LAC 48:I.Chapter 41)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 41 as authorized by R.S. 36:254 and R.S. 40:2006.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 324 of the 2018 Regular Session of the Louisiana Legislature enacted R.S. 40:2006.2 which directed the Department of Health to establish an expedited licensing process and fees for healthcare facilities and providers licensed by the department. In compliance with the requirements of Act 324, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing an expedited licensing process and fees for healthcare facilities and providers licensed by the department.

Title 48 PUBLIC HEALTH-GENERAL Part I. General Administration Subpart 3. Licensing and Certification

Chapter 41. Expedited Licensing Process for Healthcare Facilities and Providers Licensed by the Department of Health §4101. Definitions

Approval—a determination by the Department of Health that an application meets the criteria of the expedited licensing process.

Applicant—any person, partnership, corporation, unincorporated association or other legal entity currently operating, or planning to operate, any of the health care facilities or providers licensed by the Department of Health.

Applicant Representative—the person specified by the applicant on the application form authorized to respond to inquiries from the Department of Health regarding the expedited licensing process and to whom written notifications are sent relative to the status of the expedited licensing application.

Department—the Louisiana Department of Health (LDH).

Health Standards Section (HSS)—the section in the Department of Health responsible for licensing health care facilities and agencies, certifying facilities and agencies that apply for participation in the Medicaid (titles XIX and XXI) and Medicare (title XVIII) programs, and conducting surveys and inspections.

Licensing—deemed to include initial licensing of a provider or facility, licensure upon a change of ownership, licensing due to relocation or replacement facility, or licensing due to adding locations, off-sites, satellites, beds, units, fleet additions or services.

Notification—deemed to be given on the date on which an applicant representative receives notice from LDH of the expedited license determination, either electronically or by certified mail to the last known address of the applicant representative.

Readiness Date—the date that the applicant indicates to the HSS field office assigned scheduler that the facility or provider is ready for the licensing survey to be conducted by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary Bureau of Health Services Financing, LR 44:

§4103. General Provisions

A. Any person, partnership, corporation, unincorporated association or other legal entity currently operating, or planning to operate, any of the health care facilities or providers licensed by the department may seek an expedited licensing process as provided for in this Chapter.

B. The provisions of this Chapter shall apply to an applicant provider or facility for any of the health care facility or provider types licensed by the department.

C. The expedited licensing process provided for in this Chapter is at the discretion of the applicant provider or facility requesting such expedited process.

1. A request for the expedited licensing process is voluntary.

2. An applicant provider or facility shall not be delayed from the usual licensing and/or survey scheduling process and timeframe, if the expedited licensing process is not requested.

D. The department shall ensure that no applicant provider or facility seeking approval to apply for licensure pursuant to a pre-licensing facility need review approval process is affected by another provider of the same license type choosing the expedited licensing process instead of the regular licensing process.

E. The department shall not utilize existing employees who conduct regular licensing surveys to conduct any expedited licensing survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

§4105. Expedited Licensing Applications and Fees

A. Requests for expedited licensing applications shall be submitted to the LDH Health Standards Section (HSS) on the forms indicated for that purpose, containing such information as the department may require, and shall be accompanied by the specified fee as established in Paragraph E of this Section.

B. The applicant shall designate a representative on the expedited licensing process application.

1. The designated applicant representative shall be the only person to whom HSS will send written notification in matters relative to the status of the expedited licensing process.

2. If the applicant representative or his/her address changes at any time during the licensing process, it is the responsibility of the applicant to notify HSS in writing of such change.

C. Documentation and correspondence related to the expedited licensing process may be submitted and received via electronic transmission to shorten the timeframe of the process.

D. The expedited licensing process fee is required at the time that the application is submitted to the department. The expedited licensing process fee shall be:

1. made payable to the Louisiana Department of Health; and

2. made in the manner required by the department on the expedited licensing process application.

E. The expedited licensing process fee shall be determined by the complexity and acuity of the requested licensing process and shall be assessed on a tiered basis pursuant to §4107 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

§4107. Expedited Licensing Survey Types and Tiers

A. The fees associated with the expedited licensing process shall be assessed according to the following tiers:

1. Tier 1. Expedited licensing fee is set at \$7,000.

2. Tier 2. Expedited licensing fee is set at \$6,000.

3. Tier 3. Expedited licensing fee is set at \$5,000.

B. Tier 1 expedited licensing processes include, but are not limited to, the following:

1. initial licensing of a hospital or off-site location of a hospital;

2. licensing of a replacement facility or location (or relocation) of the main campus of a hospital;

3. licensing of a replacement facility or location (or relocation) of an off-site campus of a hospital that has any of the following:

- a. licensed beds;
- b. surgical services; or
- c. an emergency department; and

4. initial licensing of the following:

- a. an ambulatory surgical center (ASC);
- b. an end stage renal disease (ESRD) facility;
- c. a rural health clinic (RHC);
- d. a nursing facility (NF); or
- e. a home and community-based services (HCBS)

provider or an off-site or satellite location of the provider.

C. Tier 2 expedited licensing processes include, but are not limited to, the following:

1. initial licensing of the following:

- a. an adult residential care provider (ARCP)

level 1, 2, 3 or 4;

- b. a crisis receiving center (CRC);
- c. an intermediate care facility for people

with developmental disabilities (ICF/DD);

- d. a pediatric day health care (PDHC) facility;

e. a home health agency (HHA) or an off-site or satellite location of a HHA;

f. a hospice agency, an off-site or satellite location of a hospice agency or an inpatient hospice facility;

g. a psychiatric residential treatment facility (PRTF);

h. a therapeutic group home (TGH);

i. a behavioral health services provider (BHSP);

j. an adult day health care (ADHC) facility.

k. a forensic supervised transitional residential and aftercare (FSTRA) facility;

l. a pain management clinic (PMC);

m. an adult brain injury (ABI) facility;

n. an emergency medical transportation services (EMTS) provider; or

o. any other provider or facility licensed by LDH;

2. licensing of a replacement facility or location (or relocation) of the following:

a. an ASC;

b. an ESRD facility;

c. an RHC;

d. a CRC;

e. a NF; or

f. an HCBS provider or an off-site or satellite location of the provider; and

3. licensing of additional units, services or beds, or other action at an existing licensed hospital, ASC, ESRD facility or NF that requires a physical environment survey.

D. Tier 3 expedited licensing processes include, but are not limited to, the following:

1. licensing of a replacement facility (or relocation) for the following:

a. an ICF/DD;

b. a PDHC;

c. an ADHC facility;

d. an ARCP level 1, 2, 3 or 4;

e. an HHA or an off-site or satellite location of a HHA;

f. a hospice agency or an off-site or satellite location of hospice agency or an inpatient hospice facility;

g. a PRTF;

h. a TGH;

i. a BHSP;

j. a FSTRA facility;

k. a PMC;

l. an ABI facility; or

m. any other provider or facility licensed by LDH; and

2. licensing additional units, services, beds, or other action an existing licensed ICF/DD, PDHC, HCBS provider, ADHC center, ARCP (levels 1, 2, 3 and 4), PRTF, TGH, BHSP, CRC, FSTRA facility, ABI facility, or other provider or facility licensed by the department that requires a physical environment survey, or a fleet addition for an EMTS provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

§4109. Expedited Licensing Application Review Process

A. If an applicant provider or facility submits an expedited licensing process application and pays all applicable fees in the required manner, the department shall prioritize the application. After priority review of the application, the department shall:

1. notify the applicant provider or facility of any missing documentation or information; or

2. notify the applicant of the approval of the completed expedited licensing application packet.

B. The department shall notify the applicant representative, upon approval of the completed expedited

licensing application packet, that the applicant shall provide a readiness date for the expedited survey to the appropriate HSS field office.

C. The applicant shall not contact the HSS field office to schedule the expedited survey until notified of approval as provided for in Paragraphs A and B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

§4111. Expedited Licensing Survey Process

A. Once the expedited licensing application packet has been approved, the department shall conduct the expedited licensing survey within 10 working days of the readiness date indicated by the applicant provider or facility, or such other time period to which the provider has agreed.

B. The expedited licensing survey shall be conducted in accordance with this Subchapter and applicable published licensing statutes, rules and regulations for the particular health care provider or facility type for which the applicant has applied.

C. The expedited licensing survey shall be scheduled and conducted in an expedited manner pursuant to the usual survey process, protocols and procedure.

D. The department shall provide written notification to the applicant representative of the results of the expedited licensing survey within 10 working days of the survey exit date. This notification may be made by electronic transmission.

1. The written notification of the expedited survey results shall include any licensing deficiencies, requirements for a plan of correction, and review and/or appeal rights as to the deficiencies, if applicable, pursuant to applicable licensing statutes, rules and regulations.

2. If deficiencies are cited at the expedited licensing survey, the department may, at its option:

a. require a plan of correction and conduct a follow-up licensing survey;

b. issue a provisional license, pursuant to applicable licensing regulations; or

c. issue a license denial, including appeal rights, pursuant to applicable licensing regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

§4113. Expedited Licensing Survey Refunds

A. The department shall refund the expedited licensing process fee amount paid by an applicant provider or facility if

the survey is not conducted within the time periods specified in §4111.A, unless such failure to conduct the survey is due to the unavailability of the facility or provider.

B. If the applicant facility or provider fails to be ready when the department begins to conduct the expedited licensing survey, the survey will be ended, no refund of the expedited licensing fee will be due, and the applicant facility or provider shall have the choice to:

1. re-submit a new expedited licensing process application and applicable fee; or
2. submit a regular licensing process application and applicable fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

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, October 25, 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

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Financing

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Rule Title: Expedited Licensing Process for
Healthcare Facilities and
Providers

Date Rule Takes Effect: December 20, 2018

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 \$1,620 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 increase revenue collections by an indeterminable amount due to a potential increase in licensing fees collected from healthcare providers who may choose to undergo the expedited licensing process.

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

This proposed rule, in compliance with Act 324 of the 2018 Regular Session of the Louisiana Legislature, proposes to adopt provisions governing an expedited licensing process and fees for healthcare facilities and providers licensed by the Louisiana Department of Health. It is anticipated that implementation of this proposed rule will result in increased economic costs to healthcare providers and facilities that choose the expedited licensing process in FY 18-19, FY 19-20 and FY 20-21. Since there is no way to determine the number of providers that may select this option or the hours needed to complete the required licensing surveys, the amount of the increase is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Veronica Dent
Signature of Agency Head
or Designee 7-10-18

Jen Steele, Medicaid Director
Typed name and Title of
Agency Head or Designee

Bhaskar Ford
LDH/BHSF Budget Head

Evan Brannon Stoff Overton
Legislative Fiscal Officer
or Designee

9/10/18
Date of Signature

09/10/18
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 324 of the 2018 Regular Session of the Louisiana Legislature, proposes to adopt provisions governing an expedited licensing process and fees for healthcare facilities and providers licensed by the Louisiana Department of Health.

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

Act 324 of the 2018 Regular Session of the Louisiana Legislature enacted R.S. 40:2006.2 which directed the Department of Health to establish an expedited licensing process and fees for healthcare facilities and providers licensed by the department. In compliance with the requirements of Act 324, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing an expedited licensing process and fees for healthcare facilities and providers licensed by the department.

- (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 \$1,620 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	\$1,620	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$1,620	\$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 18-19, \$1,620 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	\$1,620	\$0	\$0
SELF-GENERATED			
FEDERAL FUND			
OTHER (Specify)			
Total	\$1,620	\$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 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.

It is anticipated that revenue collections will increase by an indeterminable amount in FY 18-19, FY 19-20 and FY 20-21.

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 324 of the 2018 Regular Session of the Louisiana Legislature, proposes to adopt provisions governing an expedited licensing process and fees for healthcare facilities and providers licensed by the Louisiana Department of Health.

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

It is anticipated that implementation of this proposed rule will result in increased economic costs to healthcare providers and facilities that choose the expedited licensing process in FY 18-19, FY 19-20 and FY 20-21. Since there is no way to determine the number of providers that may select this option or the hours needed to complete the required licensing surveys, the amount of the increase is indeterminable.

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.