



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

March 10, 2021

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee  
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

**From:** Dr. Courtney N. Phillips  
Secretary

**Re:** Second Report on Proposed Amendments to LAC 48:I. Chapters 53 and 54 – Crisis Receiving Centers Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Crisis Receiving Centers Licensing Standards, LAC 48:I. Chapters 53 and 54.

A Notice of Intent on the proposed amendments was published in the January 20, 2021 issue of the *Louisiana Register* (LR 47:138). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the January 20, 2021, Notice of Intent when it is published as a final rule in the April 20, 2021, issue of the *Louisiana Register*.

Please contact Cynthia York, at [Cynthia.York@la.gov](mailto:Cynthia.York@la.gov), if you have any questions or require additional information about this matter.

**Cc:** Cecile Castello, Deputy Assistant Secretary, Health Standards Section, LDH  
Veronica Dent, LDH Medicaid Program Manager  
Bethany Blackson, LDH Legislative Liaison  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

The proposed rule changes amend the rule relative to a state of emergency by adding public health emergencies to disaster declarations as events which may trigger the rule's provisions, increases the amount of medication which may be dispensed for emergency prescriptions, and streamlines credentialing procedures during a state of emergency.

## **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will not affect revenue collections of state or local governmental units.

## **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes will benefit patients by allowing pharmacists to dispense a larger supply of medications during declared emergencies. Pharmacists licensed elsewhere but not in this state and seeking to assist in disaster relief efforts will benefit with streamlined credentialing procedures.

## **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes will have no effect on competition or employment.

Malcolm J. Broussard  
Executive Director  
2101#026

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Officer

## **NOTICE OF INTENT**

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

Crisis Receiving Centers—Licensing Standards  
(LAC 48:I.Chapters 53 and 54)

The Department of Health, Bureau of Health Services Financing proposes to amend the LAC 48:I.Chapters 53 and 54 as authorized by R.S. 36:254 and R.S. 40:2180.11 et seq. 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 proposes to amend the provisions governing licensing standards for crisis receiving centers (CRCs) in order to clarify the language in the administrative Rule and add provisions for emergency preparedness and infection control, optional participation in the Patient Compensation Fund, physical environment requirements, and inactivation of the CRC license due to a non-declared emergency or disaster.

### **Title 48**

### **PUBLIC HEALTH—GENERAL**

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

#### **Subpart 3. Licensing**

#### **Chapter 53. Level III Crisis Receiving Centers**

#### **Subchapter A. General Provisions**

#### **§5301. Introduction**

A. - A.3. ...

B. The purpose of a CRC is to provide intervention and stabilization services in order for the client to achieve stabilization and be discharged and referred to the lowest appropriate level of care that meets the client's needs. The estimated length of short term stay in a CRC is 3-7 days.

C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:101 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

## **§5303. Definitions**

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*Cessation of Business*—provider is non-operational and/or has stopped offering or providing services to the community.

*Change of Ownership (CHOW)*—the addition, substitution, or removal, whether by sale, transfer, lease, gift or otherwise, of a licensed health care provider subject to this rule by a person, corporation, or other entity, which results in a change of ownership (CHOW) or change of controlling interest of assets or other equity interests of the licensed entity may constitute a CHOW of the licensed entity. An example of an action that constitutes a CHOW includes, but is not limited to, the leasing of the licensed entity.

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*Department*—the Louisiana Department of Health.

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*Disaster or Emergency*—a local, community-wide, regional or statewide event that may include, but is not limited to:

1. - 8. ...

9. declared public health crisis.

*Division of Administrative Law (DAL)*—the Division of Administrative Law or its successor entity.

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*HSS*—the Health Standards Section of the Department of Health, Office of the Secretary, Office of Management and Finance.

\*\*\*

*Level III Crisis Receiving Center (or Center or CRC)*—an agency, business, institution, society, corporation, person or persons, or any other group, licensed by the Department of Health to provide crisis identification, intervention and stabilization services for people in behavioral crisis. CRCs receive, examine, triage, refer, or treat people in behavioral health crisis. A CRC shall have no more than:

a. 36 chairs for crisis stabilization/observation; and

b. 24 beds for short term stay (three to seven days).

Note: Refer to physical environment Section of this Chapter for physical space requirements.

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*Major Alteration*—any repair or replacement of building materials and equipment which does not meet the definition of minor alteration.

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*Minor Alteration*—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

*OBH*—the Department of Health, Office of Behavioral Health.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:102 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **Subchapter B. Licensing**

##### **§5311. Initial Licensure Application Process**

A. ...

B. A person/entity/organization applying for an initial license must submit a completed initial licensing application packet which shall include:

1. - 6. ...

7. except for governmental entities or organizations, proof of financial viability, comprised of the following:

a. ...

b. general liability insurance of at least \$500,000 per occurrence;

c. worker's compensation insurance in the amount as required by state law;

d. professional liability insurance of at least \$100,000 per occurrence/\$500,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

i. if the CRC is not enrolled in the PCF, professional liability limits shall be \$1,000,000 per occurrence/\$3,000,000 per annual aggregate; and

e. the LDH-HSS shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent);

B.8. - C.2. ...

D. Once the initial licensing application is approved by LDH, notification of such approval shall be forwarded to the applicant.

E. The applicant shall notify LDH of initial licensing survey readiness within the required 90 days of receipt of application approval. If an applicant fails to notify LDH of initial licensing survey readiness within 90 days, the application will be closed.

F. - H.4. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:104 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§5317. Changes in Licensee Information or Personnel**

A. - A.4. ...

B. Any change to the CRC's name or "doing business as" name requires the applicable nonrefundable fee for the issuance of an amended license with the new name.

C. - E.3. ...

F. Any request for a duplicate license shall be accompanied by the applicable fee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:106 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§5319. Renewal of License**

A. ...

B. To renew a license, the CRC shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet includes:

1. - 5. ...

6. except for governmental entities or organizations, proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

b. general liability insurance of at least \$500,000 per occurrence;

c. worker's compensation insurance in the amount as required by state law;

d. professional liability insurance of at least \$100,000 per occurrence/\$500,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

i. if the CRC is not enrolled in the PCF, professional liability limits shall be \$1,000,000 per occurrence/\$3,000,000 per annual aggregate; and

e. the LDH-HSS shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent).

C. - G.3.d. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:106 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§5327. Cessation of Business**

A. Except as provided in §5407 and §5409 of these licensing regulations, a license shall be immediately null and void if a provider ceases to operate.

B. - H. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:108 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **Subchapter C. Organization and Administration**

##### **§5337. General Provisions**

A. Purpose and Organizational Structure. The CRC shall develop and implement a statement maintained by the center that clearly defines the purpose of the CRC. The statement shall include:

1. - 3. ...

4. the geographic area served;

A.5. - D.3. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:110 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:



### **§5339. Governing Body**

A. - B.4. ...

C. The responsibilities of a CRC's governing body include, but are not limited to:

1. - 7. ...

8. informing the department, or its designee, prior to initiating any substantial changes in the services provided by the center;

9. ensuring statewide criminal background checks are conducted as required in this Chapter and state law; and

10. ensuring verification of the Louisiana Adverse Action website and the nurse aide registry for direct care staff as required in this Chapter and state law.

D. - E.6. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:111 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

### **§5341. Policies and Procedures**

A. Each CRC shall develop, implement and comply with center-specific written policies and procedures governing all requirements of this chapter, including, but not limited to the following areas:

1. - 18. ...

19. infection control practices that meets current state and federal infection control guidelines;

20. - 25. ...

B. A center shall develop, implement and comply with written personnel policies in the following areas:

1. - 11. ...

12. obtaining criminal background checks, adverse action, and registry checks.

C. - E.3. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:111 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

### **Subchapter E. Personnel**

#### **§5357. General Requirements**

A. - D.3. ...

E. The CRC shall review the Louisiana state nurse aide registry and the Louisiana direct service worker registry included in the Louisiana Adverse Action website, or its successor, to ensure that each unlicensed direct care staff member prior to hire or employment and at least annually thereafter, does not have a negative finding on either registry.

F. - F.1.b. ...

2. The center providing services to adults is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a member of the direct care staff who:

a. - a.v. ...

b. has a finding placed on the Louisiana state nurse aide registry or the Louisiana direct service worker registry on the Louisiana Adverse Action website, or its successor.

G. - I.2. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:113 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

### **Subchapter G. Program Operations**

#### **§5375. Treatment Services**

A. A CRC shall:

1. ...

2. operate no more than 24 licensed beds;

3. operate no more than 36 chairs/recliners for observation and crisis stabilization

4. provide services to either adults or minors but not both; and

a. - f. Repealed.

5. provide services that include, but are not limited to:

a. emergency screening;

b. assessment;

c. crisis intervention and stabilization;

d. 24 hour observation;

e. medication administration; and

f. referral to the most appropriate and least restrictive setting available consistent with the client's needs.

B. Short term stay. A CRC shall admit clients for a short term stay with an estimated length of 3-7 days. If a greater length of stay is needed, the CRC shall maintain documentation of clinical justification for the extended stay.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:118 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **§5383. Food and Diet**

A. - A.9. ...

B. The CRC may provide meal service and preparation pursuant to a written agreement with an outside food management company. If provided pursuant to a written agreement, the CRC shall:

1. - 2. ...

3. ensure that the outside food management company possesses a valid OPH retail food permit and meets all requirements for operating a retail food establishment that serves a highly susceptible population, in accordance with the special requirements for highly susceptible populations as promulgated in the current *Louisiana Sanitary Code* provisions governing food display and service for retail food establishments; and

4. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:119 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

### **Subchapter I. Physical Environment**

#### **§5397. Interior Space**

A. - N.6. ...

O. Observation area(s)

1. The CRC shall have one or more spaces for the placement of chair/recliners in an observation area. This space may be of a permanent configuration or may be rearranged based on the needs of the clients in the CRC. There shall be at least three feet between each chair and at least six

feet at the foot of each chair/recliner. The head of the chair/recliner may be positioned at a wall.

**P. Smoking**

1. The CRC shall prohibit smoking in the interior of the center.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:121 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**Chapter 54. Crisis Receiving Centers**

**Subchapter A. Safety and Emergency Preparedness**

**§5403. Infection Control**

A. ...

B. The CRC shall have an active Infection Control Program that requires:

1. reporting of infectious disease in accordance with current OPH and federal guidelines;

2. - 3. ...

4. a designated infection control coordinator who:

a. ...

b. develops and implements policies and procedures governing the infection control program that is compliant with most recently published/current state and federal infection control guidelines in preparation for, during, and after a public health emergency or disaster;

c. takes universal precautions, including proper handwashing and face masks, as needed; and

B.4.d. - E.3. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:123 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§5405. Emergency Preparedness**

A. The CRC shall have a written emergency preparedness plan to:

1. maintain continuity of the center's operations in preparation for, during and after an emergency or disaster;

2. manage the consequences of all disasters or emergencies that disrupt the center's ability to render care and treatment, or threaten the lives or safety of the clients; and

3. comply with recently published/current state and federal infection control guidelines in preparation for, during, and after a public health emergency or disaster.

B. - D.8.e. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:124 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§5407. Inactivation of License due to a Declared**

**Disaster or Emergency**

A. A CRC located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the center:

1. submits written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. ...

b. the CRC intends to resume operation as a CRC in the same service area; and

c. the CRC attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

**NOTE:** Pursuant to these provisions, an extension of the 60-day deadline for initiation of request may be granted at the discretion of the department.

A.1.d. - B. ...

C. In order to obtain license reinstatement, a CRC with a department-issued notice of inactivation of license shall:

1. submit a written license reinstatement request to HSS 60 days prior to the anticipated date of reopening that includes:

a. the anticipated date of reopening, and a request to schedule a licensing survey;

b. - c. ...

2. The CRC shall resume operating in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766.

D. - H. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:124 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§5409. Inactivation of License due to a Non-Declared  
Emergency or Disaster**

A. A CRC in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the CRC shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

a. the CRC has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the facility intends to resume operation as a CRC in the same service area;

c. the CRC attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the inactivation due to a non-declared emergency or disaster does not exceed one year receipt of notice of approval of renovation/construction plans by OSFM and OPH as required;

**NOTE:** Pursuant to these provisions, an extension of the 30-day deadline for initiation of request may be granted at the discretion of the department.

**EXCEPTION:** If the CRC requires an extension of this timeframe due to circumstances beyond the CRC's control, upon written request, the department may consider an extended time period to complete construction or repairs. Such written request for extension shall show the CRC's active efforts to complete construction or repairs and the reasons for request for extension of the CRC's inactive license. Any approvals for extension are at the sole discretion of the department.

2. the CRC continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the CRC continues to submit required documentation and information to the department, including but not limited to, cost reports.

B. Upon receiving a completed written request to temporarily inactivate the CRC license due to a non-declared emergency or disaster, the department shall issue a notice of inactivation of license to the CRC.

C. Upon the CRC's receipt of the department's approval of request to inactivate the license, the CRC shall have 90 days to submit plans for the repairs, renovations, rebuilding, or replacement of the CRC to OSFM and OPH as required.

D. The CRC shall resume operating as a CRC in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

E. Upon completion of repairs, renovations, rebuilding, or replacement of the CRC, a CRC which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the CRC shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of re-opening and shall request scheduling of a licensing or physical environment survey; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate a CRC license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the CRC has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership of the CRC shall occur until such CRC has completed repairs, renovations, rebuilding, or replacement construction and has resumed operations as a CRC.

H. The provisions of this Section shall not apply to a CRC that has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the CRC license.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

#### **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 Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on March 1, 2021.

#### **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 February 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, the department will conduct a public hearing at 8 a.m. on February 25, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after February 9, 2021. 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



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Crisis Receiving Centers  
Licensing Standards**

**Title 48  
PUBLIC HEALTH—GENERAL  
Part I. General Administration  
Subpart 5. Health Planning  
Chapter 125. Facility Need Review  
Subchapter D. Relocation of Nursing Facility Beds  
§12529. General Provisions**

~~A. A nursing facility's approved beds (Medicaid facility need review approvals) cannot be relocated to a different service area, subject to the exceptions in Section 12529.C and Section 12529.D below.~~

~~B. C.1.i. ...~~

~~D. In addition to Paragraphs B and C of this Section, Medicaid FNR approvals of an existing licensed and certified nursing facility that is awaiting the completion of a replacement nursing facility building, may be temporarily relocated to a licensed building that may be outside of the service area or parish of the existing FNR approved service area or parish under the following conditions:~~

~~1. The department may approve a one time temporary relocation of a nursing facility's Medicaid FNR approvals to another licensed building that may be outside the existing FNR approved service area or parish, provided that all of the following provisions are met:~~

~~a. The relocating nursing facility shall send a written request to the department's Health Standards Section at least 30 days before the proposed temporary relocation outside the existing FNR approved service area or parish, for the department's review and approval. This request shall include all good cause grounds for the temporary relocation of the Medicaid FNR approvals. The department will determine if approval of the temporary relocation will be granted.~~

~~b. The nursing facility shall not temporarily relocate to a licensed building located in a service area or parish that is greater than 100 miles from the existing licensed service area or parish of the nursing facility.~~

~~c. The temporarily relocating nursing facility shall maintain the same number of licensed and Medicaid FNR approved beds as prior to the relocation.~~

~~d. All temporarily relocated Medicaid FNR approvals of the licensed and certified nursing facility are subject to compliance with all state and federal licensure/certification guidelines and procedures.~~

~~e. The temporary location shall be in compliance with all licensing and certification standards for nursing facilities, and receive a temporary nursing facility license issued by the department.~~

~~f. The temporary license shall expire 6 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 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 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1009 (May 2010), amended by the Department of Health, Bureau of Health Services Financing LR 46:953 (July 2020), LR 47:~~

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT 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 20-21. It is anticipated that \$2,700 will be expended in FY 20-21 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 no effect on 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, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the provisions governing licensing standards for crisis receiving centers (CRCs) in order to clarify the language in the administrative Rule and add provisions for emergency preparedness and infection control, optional participation in the Patient Compensation Fund, physical environment requirements, and inactivation of the CRC license due to a non-declared emergency or disaster. This Rule is anticipated to have no impact on small businesses as these provisions are currently in practice for these providers and are consistent with other licensing rules. It is anticipated that implementation of this proposed Rule will not result in any costs to crisis receiving centers in FY 20-21, FY 21-22, and FY 22-23, but will be beneficial by ensuring that the provisions are clearly promulgated in the Louisiana Administrative Code.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Cecile Castello, BSN, RN  
Deputy Assistant Secretary  
2101#047

Alan M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Facility Need Review—Relocation of Nursing Facility Beds  
(LAC 48:I.12529)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.12529 as authorized by R.S. 36:254 and 40:2116. 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 proposes to amend the provisions governing the facility need review (FNR) process in order to allow the department to approve a temporary relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building.



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

March 10, 2021

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee  
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

**From:** Dr. Courtney N. Phillips  
Secretary

**Re:** Second Report on Proposed Amendments to LAC 50:II.20029 – Nursing Facilities  
Supplemental Payments Non-State Governmental Organizations

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Nursing Facilities Supplemental Payments Non-State Governmental Organizations, LAC 50:II.20029.

A Notice of Intent on the proposed amendments was published in the January 20, 2021 issue of the *Louisiana Register* (LR 47:144). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the January 20, 2021, Notice of Intent when it is published as a final rule in the April 20, 2021, issue of the *Louisiana Register*.

Please contact Denis Beard, at [denis.beard@la.gov](mailto:denis.beard@la.gov), and Mary Mason, at [mary.mason@lagov](mailto:mary.mason@lagov), if you have any questions or require additional information about this matter.

**Cc:** Kelly Zimmerman, Interim Medicaid Deputy Director, LDH  
Andrew Perilloux, Medicaid Program Manager, LDH  
Daniel Cocran, Deputy Medicaid Director, LDH  
Veronica Dent, LDH Medicaid Program Manager  
Bethany Blackson, LDH Legislative Liaison  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register



### **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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

### **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, 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 Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on March 1, 2021.

### **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 February 9, 2021. 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 February 25, 2021 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 February 9, 2021. 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 (eater 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

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Facility Need Review—Relocation of Nursing Facility Beds**

#### **~~I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT 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 20-21, as the rule will not result in an increase in licensed nursing facility beds and will not result in an increase in Medicaid Facility Need Review Approvals. It is anticipated that \$648 will be expended in FY 20-21 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 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, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)~~**

~~This proposed rule amends the provisions governing the facility need review (FNR) process in order to allow the department to approve a temporary relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building. It is anticipated that implementation of this proposed rule will not result in costs to nursing facility providers and will have no impact on small businesses in FY 20-21, FY 21-22 and FY 22-23, as the rule will not result in an increase in licensed nursing facility beds and will not result in an increase in Medicaid Facility Need Review Approvals.~~

#### **~~IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)~~**

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

Cecile Castello, BSN, RN  
Deputy Assistant Secretary  
2012#048

Alan M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

## **NOTICE OF INTENT**

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

Nursing Facilities  
Supplemental Payments  
Non-State Governmental Organizations  
(LAC 50:II.20029)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20029 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to remove a facility that is no longer owned or operated by a

non-state governmental organization (NSGO) from the list of NSGO facilities qualified to receive quarterly upper payment limit supplemental payments.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part II. Nursing Facilities**

#### **Subpart 5. Reimbursement**

### **Chapter 200. Reimbursement Methodology**

#### **§20029. Supplemental Payments**

##### **A. Non-State Governmental Organization Nursing Facilities**

1. Effective for dates of service on or after January 20, 2016, any nursing facility that is owned or operated by a non-state governmental organization (NSGO), and that has entered into an agreement with the department to participate, shall qualify for a Medicaid supplemental payment adjustment, in addition to the uniform Medicaid rates paid to nursing facilities. The only qualifying nursing facilities are:

- a. Gueydan Memorial Guest Home;
- b. LaSalle Nursing Home;
- c. Natchitoches Parish Hospital LTC Unit; and
- d. St. Helena Parish Nursing Home.
- e. Repealed.

2. - 5. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:63 (January 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 43:529 (March 2017), LR 47:

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.

##### **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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

##### **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.

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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on March 1, 2021.

#### **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 February 9, 2021. 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 February 25, 2021 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 February 9, 2021. 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

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Nursing Facilities**

#### **Supplemental Payments**

#### **Non-State Governmental Organizations**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in a reduction of intergovernmental transfer (IGT) funds used as a "state match" source in the amount of \$211,632 for FY 20-21, \$208,321 for FY 21-22 and \$208,321 for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 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 reduce federal revenue collections by approximately \$427,242 for FY 20-21, \$431,093 for FY 21-22, and \$431,093 for FY 22-23. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing the reimbursement methodology for nursing facilities in order to remove a facility that is no longer owned or operated by a non-state governmental organization (NSGO) from the list of

NSGO facilities qualified to receive quarterly upper payment limit supplemental payments. This proposed Rule will have no impact on small businesses. It is anticipated that implementation of this proposed rule will reduce expenditures for nursing facility services by approximately \$639,414 for FY 20-21, \$639,414 for FY 21-22 and \$639,414 for FY 22-23.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Interim Medicaid Director  
2012#049

Alan M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

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

##### Professional Services Program Reimbursement Methodology (LAC 50:IX, Chapter 151)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX, Chapter 151 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 proposes to amend the provisions governing the Professional Services Program in order to remove information related to programs no longer in operation, remove provisions that are located in other places within the *Louisiana Administrative Code*, clarify the reimbursement methodology for certain providers and services, and to provide for a rate restoration related to neonatal critical care services.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part IX. Professional Services Program

##### Subpart 15. Reimbursement

#### Chapter 151. Reimbursement Methodology

##### Subchapter B. Physician Services

#### §15111. General Provisions

A. Physicians shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser amount.

B. Optometrists rendering eye care services shall be reimbursed using the same methodology as physicians rendering the same eye care services.

1. 3. Repealed.

C. Advanced practice registered nurses, physician assistants, and licensed midwives shall be reimbursed as a percentage of physician reimbursement, as specified by the Medicaid Program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3300 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### §15113. Reimbursement Methodology

A. For newly added procedure codes for beneficiaries age 0 through 15 years old, the Medicaid fee shall be set at 90 percent of the current year's Louisiana Region 99 Medicare allowable fee. For newly added procedure codes for beneficiaries age 16 years and older, the Medicaid fee shall be set at 75 percent of the current year's Louisiana Region 99 Medicare allowable fee.

1. If there is no corresponding Medicare fee, the Medicaid fee shall be set based on a review of other state Medicaid Program fees, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the department's fiscal intermediary.

2. If establishing a Medicaid fee based on Medicare rates results in a fee that is reasonably expected to be insufficient to ensure that the service is available to beneficiaries, an alternate methodology shall be used. The Medicaid fee shall be set based on a review of other state Medicaid Program fees, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the department's fiscal intermediary.

B. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2.a 3.b. Repealed.

D. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4,





**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

March 10, 2021

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee  
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

**From:** Dr. Courtney N. Phillips  
Secretary

**Re:** Second Report on Proposed Amendments to LAC 50:XI.Chapter 151 –  
Professional Services Reimbursement Methodology

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Nursing Facilities Professional Services Reimbursement Methodology, LAC 50:XI.Chapter 151.

A Notice of Intent on the proposed amendments was published in the January 20, 2021 issue of the *Louisiana Register* (LR 47:146). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the January 20, 2021, Notice of Intent when it is published as a final rule in the April 20, 2021, issue of the *Louisiana Register*.

Please contact Marcus Bachhuber, MD, at [marcus.bachhuber@la.gov](mailto:marcus.bachhuber@la.gov), if you have any questions or require additional information about this matter.

**Cc:** Kelly Zimmerman, Interim Medicaid Deputy Director, LDH  
Marcus Bachhuber, MD, Medicaid Program Manager, LDH  
Veronica Dent, LDH Medicaid Program Manager  
Bethany Blackson, LDH Legislative Liaison  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

~~NSGO facilities qualified to receive quarterly upper payment limit supplemental payments. This proposed Rule will have no impact on small businesses. It is anticipated that implementation of this proposed rule will reduce expenditures for nursing facility services by approximately \$639,414 for FY 20-21, \$639,414 for FY 21-22 and \$639,414 for FY 22-23.~~

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

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

Tara A. LeBlanc  
Interim Medicaid Director  
2012#049

Alan M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Professional Services Program  
Reimbursement Methodology  
(LAC 50:IX.Chapter 151)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.Chapter 151 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 proposes to amend the provisions governing the Professional Services Program in order to remove information related to programs no longer in operation, remove provisions that are located in other places within the *Louisiana Administrative Code*, clarify the reimbursement methodology for certain providers and services, and to provide for a rate restoration related to neonatal critical care services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part IX. Professional Services Program**

**Subpart 15. Reimbursement**

**Chapter 151. Reimbursement Methodology**

**Subchapter B. Physician Services**

**§15111. General Provisions**

A. Physicians shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser amount.

B. Optometrists rendering eye care services shall be reimbursed using the same methodology as physicians rendering the same eye care services.

1. - 3. Repealed.

C. Advanced practice registered nurses, physician assistants, and licensed midwives shall be reimbursed as a percentage of physician reimbursement, as specified by the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3300 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§15113. Reimbursement Methodology**

A. For newly added procedure codes for beneficiaries age 0 through 15 years old, the Medicaid fee shall be set at 90 percent of the current year's Louisiana Region 99 Medicare allowable fee. For newly added procedure codes for beneficiaries age 16 years and older, the Medicaid fee shall be set at 75 percent of the current year's Louisiana Region 99 Medicare allowable fee.

1. If there is no corresponding Medicare fee, the Medicaid fee shall be set based on a review of other state Medicaid Program fees, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the department's fiscal intermediary.

2. If establishing a Medicaid fee based on Medicare rates results in a fee that is reasonably expected to be insufficient to ensure that the service is available to beneficiaries, an alternate methodology shall be used. The Medicaid fee shall be set based on a review of other state Medicaid Program fees, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the department's fiscal intermediary.

B. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2.a - 3.b. Repealed.

D. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4,

2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

a. - c. Repealed.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery services.

E. ...

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

F. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

G. - H.3. ...

I. Effective for dates of service on or after July 1, 2012, reimbursement shall be as follows for the designated physician services:

1. reimbursement for professional consultation services (procedure codes 99241-99245 and 99251-99255) shall be discontinued;

2. reimbursement for cesarean delivery (procedure codes 59514-59515) shall be reduced to equal reimbursement for vaginal delivery fees (procedure codes 59409-59410); and

3. ...

J. Effective for dates of service on or after February 1, 2013, the reimbursement for certain physician services shall be reduced by 1 percent of the rate in effect on January 31, 2013.

1. - 4. Repealed.

K. Effective for dates of service on or after February 1, 2018, physicians, who qualify under the provisions of §15110 for services rendered in affiliation with a state-owned or operated entity that has been designated as an essential provider, shall receive enhanced reimbursement rates up to the community rate level for qualifying services as determined in §15110.C.

L. Effective for dates of service on or after May 1, 2021, the fee on file for inpatient neonatal critical care services (as specified in CPT) shall be increased by 5 percent.

L.1. - N. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR

41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:62 (January 2018), LR 47:

## **Subchapter E. Family Planning Services**

### **§15141. General Provisions**

A. Reimbursement for family planning services shall be made according to the established fee schedule or billed charges, whichever is the lesser amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

### **§15143. Reimbursement Methodology**

A. The reimbursement methodology for family planning services is the same as for physician services.

B. - E.3.a. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2566 (November 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1781 (July 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

### **§15145. Long-Acting Reversible Contraceptives**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2261 (November 2014), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

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.

### **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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

### **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, but may reduce the total direct and indirect cost to some providers to provide the same level of service, and may enhance those provider's ability to provide the same level of service as described in HCR 170 since this Emergency Rule increases payments to some providers for the same services they already render.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on March 1, 2021.

#### **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 February 9, 2021. 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 February 28, 2021 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 February 9, 2021. 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

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Professional Services Program Reimbursement Methodology**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$42,148 for FY 20-21, \$168,974 for FY 21-22 and \$179,847 for FY 22-23. It is anticipated that \$1,296 (\$648 SGF and \$648 FED) will be expended in FY 20-21 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 federal revenue collections by approximately \$86,527 for FY 20-21, \$356,935 for FY 21-22, and \$379,900 for FY 22-23. It is anticipated that \$648 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the provisions governing reimbursement in the Professional Services Program in order to remove information related to programs no longer in operation, remove provisions that are located in other places within the Louisiana Administrative Code, clarify the reimbursement methodology for certain provider types and services, and to provide for a restoration of the reimbursement rates for neonatal critical care services which were previously reduced. Providers of neonatal critical care services will benefit from the increase in reimbursement rates. It is anticipated that implementation of this proposed Rule will increase payments in the Professional Services Program by approximately \$127,379 for FY 20-21, \$525,909 for FY 21-22, and \$559,747 for FY 22-23.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Interim Medicaid Director  
2012#050

Alan M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Office of Public Health**

#### **Registration of Foods, Drugs, Cosmetics and Prophylactic Devices (LAC 49:Chapter 5)**

~~Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to adopt one new Section and amend certain existing Sections of Chapter 5 (Registration of Foods, Drugs, Cosmetics and Prophylactic Devices) of Title 49 (Public Health Food, Drugs, and Cosmetics) of the Louisiana Administrative Code. This proposed rule will update LDH-OPH's currently existing rule pertaining to industrial hemp-derived cannabidiol products (IHDCP). This rulemaking is proposed pursuant to Section 1483 of Title 3 of the Revised Statutes of 1950, enacted as part of Act 344 of the 2020 Regular Session of the Louisiana Legislature.~~

~~For the reason set forth above, the following proposed additions and amendments to LAC 49 are hereby proposed to be adopted:~~

#### **Title 49**

#### **Public Health—FOOD, DRUGS, AND COSMETICS**

#### **Part I. Regulations**

#### **Chapter 5. Registration of Foods, Drugs, Cosmetics and Prophylactic Devices**

#### **§501. Definitions**

#### **{Formerly 49:2.2100}**

~~A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of Title 49, and all other Chapters of Title 49 which are adopted or may be adopted, are defined for the purposes thereof as follows:~~

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