



State of Louisiana
Louisiana Department of Health
Office of the Secretary

December 10, 2024

Via Statutorily Prescribed Email

To: The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

From: Michael Harrington, MBA, MA
Secretary

A blue ink handwritten signature of Michael Harrington.

Re: Second Report to Proposed Amendments to LAC 48:I.4531 – Ambulatory Surgical Center – 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 Amendments to Ambulatory Surgical Center – Licensing Standards, LAC 48:I.4531.

A Notice of Intent on the proposed amendments was published in the October 20, 2024 issue of the *Louisiana Register* (LR 50:1560). No written comments were received and there was no request for a public hearing 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. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the October 20, 2024 Notice of Intent when it is published as a final rule in the January 20, 2025 issue of the *Louisiana Register*.

Please contact Cynthia York, Cynthia.York@la.gov if you have any questions or require additional information about this matter.

Cc: Tasheka Dukes, HSS Deputy Assistant Secretary, LDH
Kimberly Humbles, General Counsel, LDH
Bethany Blackson, Chief of Staff, LDH
Andrea Trantham, Editor, *Louisiana Administrative Code*, Office of the State Register

NOTICE OF INTENT

**Department of Health
Health Standards Section**

Ambulatory Surgical Center
Licensing Standards
(LAC 48:I.4531)

The Department of Health, Health Standards Section, proposes to amend LAC 48:I.4531 as authorized by R.S. 36:254 and R.S. 40:2131-2141. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The department proposes to amend the provisions governing the licensing of ambulatory surgical centers (ASCs) to provide consistency throughout the regulations that ASCs are required to obtain a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

Subchapter B. Administration and Organization

§4531. Governing Body

A. - C. ...

D. The governing body of an Ambulatory Surgical Center (ASC) shall:

1. ...

2. ensure that the ASC is adequately funded and fiscally sound which entails a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000.

a. - b. Repealed.

3. - 15.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1740 (September 2017), amended by the Department of Health, Health Standards Section, LR 51:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an indeterminable impact on the direct or indirect cost to small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may have an indeterminable impact on the direct or indirect cost to the provider and on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 4, 2024.

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 November 12, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 3, 2024 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 November 12, 2024. 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.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Ambulatory Surgical Center

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 24-25. It is anticipated that \$324 will be expended in FY 24-25 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 as this measure has no impact on Ambulatory Surgical Center (ASC) licensing fees.

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

This proposed rule amends provisions governing ASCs to provide consistency in the regulations that ASCs are required to obtain a line of credit from a federally insured, licensed lending institution in the amount of at least \$100,000. It is anticipated that implementation of this proposed rule may result in an indeterminable amount of costs to ASCs in FY 24-25, FY 25-26, and FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2410#072

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office