



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 handwritten signature in blue ink, appearing to be "DM", located to the right of the "From:" field.

Re: Second Report to Proposed Amendments to LAC 48:I.Chapter 67 – Free-Standing Birth 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 Amendments to Free-Standing Birth Centers Licensing Standards, LAC 48:I.Chapter 67.

A Notice of Intent on the proposed amendments was published in the October 20, 2024 issue of the *Louisiana Register* (LR 50:1566). 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

Free-Standing Birth Centers Licensing Standards (LAC 48:I.Chapter 67)

The Department of Health, Health Standards Section, proposes to amend LAC 48:I.Chapter 67 as authorized by R.S. 36:254 and R.S. 40:2180.21 – 2189.28. 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, Health Standards Section proposes to amend the provisions governing the licensing of free-standing birth centers (FSBC) providers in order to comply with the requirements of the following Acts of the 2024 Regular Session of the Louisiana Legislature: Act 122 that requires FSBC providers to, prior to discharge following birth, provide the mother and her family members information about post-birth warning signs, including symptoms and available resources; and Act 624 that requires FSBC providers to implement workplace violence mitigation initiatives.

In compliance with Acts 122 and 624, the Department of Health, Health Standards Section hereby proposes to amend the provisions governing the licensing of FSBCs in order to update general provisions for licensure, requirements for policies and procedures, and client discharge processes. The Department of Health, Health Standards Section also proposes to amend the provisions governing the licensing of FSBC providers in order to update requirements for provisional licensure and deemed status.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 67. Free-Standing Birth Centers

Subchapter A. General Provisions

§6713. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses.

1. ...

2. Provisional Initial License. The department may issue a provisional initial license for a period not to exceed six months to an FSBC when the initial licensing survey finds that the FSBC is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients. A provisional license may also be issued after an initial licensing survey to allow the FSBC to become accredited.

a. At the discretion of the department, the provisional license may be extended for an additional period not to exceed twelve months in order for the FSBC to reach accreditation status.

3. - 4.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2110 (August 2022), amended by the Department of Health, Health Standards Section, LR 51:

§6717. Renewal of License

A. - E. ...

F. A CHOW of the FSBC shall not be submitted at the time of renewal of the FSBC's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2111 (August 2022), amended LR 49:482 (March 2023), amended by the Department of Health, Health Standards Section, LR 51:

§6719. Deemed Status

A. - H. ...

I. An FSBC approved for deemed status is subject to and shall comply with all provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2112 (August 2022), amended by the Department of Health, Health Standards Section, LR 51:

Subchapter B. Administration and Organization

§6737. Policies and Procedures

A. - G. ...

H. The FSBC shall have written policies and procedures approved by the governing body, which shall be implemented and followed, that address, at a minimum, the following:

1. - 12. ...

13. hours outside of stated usual and customary operation, including, but not limited to early closures, extended business hours, and holidays;

14. conditions for coverage, if applicable; and

15. preventing, responding to, reporting, and mitigating instances of healthcare workplace violence in accordance with R.S. 40:2199.12(3), or current law.

I. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2116 (August 2022), amended by the Department of Health, Health Standards Section, LR 51:

Subchapter D. Service Delivery

§6761. Discharges

A. - C. ...

D. Upon discharge, the FSBC shall:

1. provide each client and their family member(s) with written discharge instructions, including available resources and written guidelines detailing how the client may get emergency assistance for herself and her newborn;

2. - 3.g....

4. ensure that all clients and their family member(s) are informed, either in advance of their delivery or prior to leaving the FSBC, of the following:

a. - c. ...

E. The FSBC shall ensure that each client has a discharge order signed by the licensed healthcare practitioner;

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40: 2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2120 (August 2022) 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 small businesses that are sanctioned for failing to comply with the requirements for addressing workplace violence.

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, will have no impact on the provider's ability to provide the same level of service as described in HCR 170, but may have an indeterminable impact on businesses that are sanctioned for failing to comply with the requirements for addressing workplace violence.

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. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 12, 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 December 3, 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. 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.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Free-Standing Birth Centers Licensing Standards

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 \$864 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 Free-Standing Birth Center (FSBC) licensing fees, since the cost for a provisional license and full licensure are identical.

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

This proposed rule amends provisions governing FSBC in order to update general provisions for licensure, requirements for policies and procedures, and client discharge procedures in accordance with Acts 122 and 624 of the 2024 Regular Session of the Louisiana Legislature. The proposed rule also amends the provisions governing the licensing of FSBC providers in order to update requirements for provisional licensure and deemed status. It is anticipated that implementation of this proposed rule will not result in costs to FSBC 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#071

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office