

NOTICE OF INTENT

**Department of Health
Health Standards Section**

**Behavioral Health Service Providers
Licensing Standards
(LAC 48:I.5603, 5684, and §5690)**

The Department of Health, Health Standards Section proposes to amend LAC 48:I.5603 and §5684, and to adopt §5690 as authorized by R.S. 36:254. 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 behavioral health service (BHS) providers in order to add the definition of Mental Health Partial Hospitalization Program, and to remove the age restriction for use of mobile crisis response services. The department also proposes to adopt licensing requirements governing BHS providers of Mental Health Partial Hospitalization programs.

Title 48

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

Chapter 56. Behavioral Health Service Providers

Subchapter A. General Provisions

§5603. Definitions

Mental Health Partial Hospitalization Program—professionally directed assessment, diagnosis, and treatment provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education, as well as medication management, medical and psychiatric examinations, and crisis mitigation coverage. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the

program shall provide 20 or more hours of structured programming per week.

Subchapter L. Additional Requirements for Mental Health Programs

§5684. Mobile Services

A. - C.9.d. ...

D. Mobile Crisis Response

1. Mobile crisis response services are an initial or emergent crisis intervention response intended to provide relief, resolution, and intervention provided by a mobile crisis response team (MCRT).

2. This service shall be provided under the supervision of a licensed mental health professional (LMHP) with experience regarding this specialized mental health service. The LMHP or physician shall be available at all times to provide back-up, support and/or consultation from assessment of risk and through all services delivered during a crisis.

D.3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:1284 (May 2022), amended by the Department of Health, Health Standards Section, LR 50:

§5690. Mental Health Partial Hospitalization Program (MHPHP)

A. The provider shall:

1. develop admission criteria that recognizes the dual-function of MHPHPs (i.e., that they can serve as both a step-down from hospitalization and as a preventative measure to hospitalization);

a. services may be offered during the day or evening hours, before or after work or on weekends, while also allowing the patient to apply their new skills and strategies in the community;

2. maintain a minimum of 20 contact hours per week for adults, at a minimum of three days per week;

3. maintain a minimum of 20 hours per week for children/adolescents, as specified in the patient's treatment plan, which may occur during school hours;

a. adolescents shall have access to educational services; or

b. the provider shall be able to coordinate with the school system to ensure that the adolescent's educational needs are met;

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days;

5. have the capability to provide:

a. individual, group, and family therapy;

b. crisis management/coverage capabilities;

c. medication management capabilities; and

d. basic case management services;

6. conduct a biopsychosocial assessment that must include an assessment for substance use/addiction, and refer to a proper level of care for addiction treatment, where indicated;

7. offer aftercare/continuing care group counseling services to people successfully completing a MHPHP; and

8. have a structured psychoeducational curriculum in place that covers, at a minimum, the following subjects:

a. disease education (i.e., education on mental illness/various psychiatric illnesses);

b. the role of medication and proper medication management in the treatment of psychiatric illnesses;

 c. education on co-occurring illnesses;

 d. education on developing a long-term recovery plan, and guidance towards getting grounded in community-based support programming geared towards people with chronic mental health challenges;

 e. education on symptom management;

 f. education on crisis management;

 g. education on the role of nutrition in the treatment of mental health issues; and

 h. education on the role of family/key personal stakeholders in a recovery plan.

B. Staffing. The provider shall ensure that:

1. a physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;
2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;
3. there is at least one LMHP on site when clinical services are being provided;
4. each LMHP/unlicensed professional's caseload does not exceed 1:25 active clients; and
5. there are nursing services available as needed to meet the nursing needs of the clients.
 - a. nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

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 may have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by expanding the availability of mental health services.

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 cost increase to small business providers who may apply to be licensed to provide Mental Health Partial Hospitalization Program services, since there is no way to determine how many of these providers will apply.

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 staffing level requirements or qualifications required to provide the same level of service, but may have an indeterminable increase in 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, since there is no way to determine how many behavioral health service providers will apply to be licensed to provide Mental Health Partial Hospitalization Program services.

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 January 2, 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 December 11, 2023. 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 January 4, 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 11, 2023. 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.

Stephen R. Russo, JD

Secretary

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

Person Preparing Statement:	<u>Cynthia York</u>	Dept.:	<u>Health</u>
Phone:	<u>342-9049</u>	Office:	<u>Health Standards Section</u>
Return Address:	<u>P. O. Box 3767</u>	Rule Title:	<u>Behavioral Health Service Providers Licensing Standards</u>
	<u>Baton Rouge, LA</u>	Date Rule Takes Effect:	<u>February 20, 2024</u>

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. **THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$864 will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the licensing of behavioral health service (BHS) providers in order to add the definition of mental health partial hospitalization program, to remove the age restriction for use of mobile crisis response services, and to adopt licensing requirements governing BHS providers of mental health partial hospitalization programs.

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

It is anticipated that implementation of this proposed rule may result in an indeterminable increase in state revenue collections in FY 23-24, FY 24-25, and FY 25-26, as BHS providers who choose to provide additional behavioral health services will be required to pay a nonrefundable application fee.

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

This proposed rule amends the provisions governing the licensing of BHS providers in order to add the definition of mental health partial hospitalization program, and to remove the age restriction for use of mobile crisis response services. This proposed rule also adopts licensing requirements governing BHS providers of mental health partial hospitalization programs. It is anticipated that implementation of this proposed rule may result in an indeterminable cost increase to BHS providers in FY 23-24, FY 24-25, and FY 25-26, since BHS providers who choose to provide additional behavioral health services will be required to pay a nonrefundable application fee.

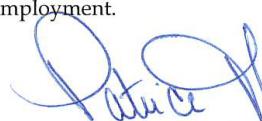
09/2023

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule has no known effect on competition and employment.

Tasheka Dukes
Signature of Head or Designee

Tasheka Dukes, RN
Deputy Assistant Secretary
LDH Health Standards Section
Typed Name & Title of Agency Head or Designee

11/08/23
Date of Signature


Patrick Thomas, Deputy Fiscal Officer
Legislative Fiscal Officer or Designee

11/08/23
Date of Signature

09/2023

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed rule amends the provisions governing the licensing of BHS providers in order to add the definition of mental health partial hospitalization program, and to remove the age restriction for use of mobile crisis response services. This proposed rule also adopts licensing requirements governing BHS providers of mental health partial hospitalization programs.

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

The Department of Health, Health Standards Section proposes to amend the provisions governing the licensing of BHS providers in order to add the definition of mental health partial hospitalization program, and to remove the age restriction for use of mobile crisis response services. This proposed rule also adopts licensing requirements governing BHS providers of mental health partial hospitalization programs.

C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. In FY 23-24, \$864 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ YES. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 24	FY 25	FY 26
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$864	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$0	\$0	\$0
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	\$864	\$0	\$0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

In FY 23-24, \$864 will be spent for the state's administrative expenses for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 24	FY 25	FY 26
STATE GENERAL FUND	\$864	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
OTHER (Specify)	\$0	\$0	\$0
TOTAL	\$864	\$0	\$0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed rule has no known impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

09/2023

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 24	FY 25	FY 26
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	increase	increase	increase
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	increase	increase	increase

*Specify the particular fund being impacted.

Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

It is anticipated that implementation of this proposed rule may result in an indeterminable increase in state revenue collections in FY 23-24, FY 24-25, and FY 25-26, as BHS providers who choose to provide additional behavioral health services will be required to pay a nonrefundable application fee.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

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

A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

This proposed rule amends the provisions governing the licensing of BHS providers in order to add the definition of mental health partial hospitalization program and to remove the age restriction for use of mobile crisis response services. This proposed rule also adopts licensing requirements governing BHS providers of mental health partial hospitalization programs.

Also provide an estimate and a narrative description of any impact on receipts and /or income resulting from this rule or rule change to these groups.

It is anticipated that implementation of this proposed rule may result in an indeterminable cost increase to BHS providers in FY 23-24, FY 24-25, and FY 25-26 as BHS providers who choose to provide additional behavioral health services will be required to pay a nonrefundable application fee.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This rule has no know effect on competition and employment.

09/2023