

## **NOTICE OF INTENT**

### **Department of Health Health Standards Section**

#### **Nurse Staffing Agencies Licensing Standards (LAC 48:I.Chapter 77)**

The Department of Health, Health Standards Section, proposes to amend LAC 48:I.Chapter 77 as authorized by R.S. 36:254 and 40:2120.11 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, Health Standards Section, proposes to amend the provisions governing the licensing of nurse staffing agencies in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

### **Title 48**

#### **PUBLIC HEALTH—GENERAL**

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

#### **Subpart 3. Licensing and Certification**

#### **Chapter 77. Nurse Staffing Agencies Licensing Standards**

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

#### **§7703. Definitions**

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*Client*—the licensed healthcare facility or agency to which the registered nurse, licensed practical nurse, or certified nursing assistant is assigned an initial employment, assignment, or referral term for an undefined term, or an initial term of less than twenty-four continuous months exclusive of any extension.

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*Digital/Smart Phone Application*—a computer program or software application operated by an agency that maintains data

of nurses or certified nurse aides for purposes of referring the nurse or certified nurse aide directly to a healthcare facility through the digital/smart phone application.

*Digital Website/Platform*—an online webpage or technology platform operated by an agency that maintains data of nurses or certified nurse aides submitted to the agency online, for purposes of referring the nurse or certified nurse aide directly to a healthcare facility by the digital website/platform agency.

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*Nurse Staffing Agency (NSA)*—any person, partnership, corporation, unincorporated association, or other legal entity, including a digital website/platform, or digital/smart phone application that employs, assigns, or refers nurses or certified nurse aides to render healthcare services in a healthcare facility for a fee. For purposes of these regulations, NSA does not include the following:

1. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1729 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

**§7707. Initial Licensure Application Process**

A. - B.7. ...

8. a completed disclosure of ownership and control form;

9. a statement of the days and hours of operation; and

10. any other relevant documentation or information required by the department for licensure.

11. Repealed.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of  
Health, Bureau of Health Services Financing, LR 49:1730 (October  
2023), amended by the Department of Health, Health Standards  
Section, LR 50:

**§7715. Change of Ownership of a Nurse Staffing Agency  
Provider**

A. - B.7. ...

8. a completed disclosure of ownership and control  
information form;

9. any other relevant documentation or information  
required by the department for licensure.

10. Repealed.

C. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of  
Health, Bureau of Health Services Financing, LR 49:1733 (October  
2023), amended by the Department of Health, Health Standards  
Section, LR 50:

**Subchapter B. Administration and Organization**

**7737. Policy and Procedures**

A. - A.13. ...

14. a written policy to address prohibited use of  
social media. The policy shall ensure that all employees or  
contracted staff, at a minimum, ensure preservation of dignity,  
respect, and confidentiality of an individual or individuals'  
receipt of healthcare services, and protection of an individual

or individuals receiving healthcare services' privacy and personal and property rights.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1739 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

### **Subchapter C. Provider Responsibilities**

#### **§7751. Core Staffing Requirements**

A. - D.7. ...

8. implement an ongoing, accurate, and effective budgeting and accounting system; and

9. ensure that all employees or contracted staff receive proper orientation and training on policies and procedures, as required by law or as necessary to fulfill each employee or contracted staff person's responsibilities.

10. (Repealed).

E. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1740 (October 2023), amended 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 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 result in an indeterminable decrease in costs to small business providers in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

#### **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 no impact on the provider's ability to provide the same level of service as described in HCR 170. It is anticipated that this proposed Rule may result in an indeterminable decrease in costs to NSA in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks

on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

#### **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<br>Preparing<br>Statement: | Cynthia York    | Dept.:                     | Health   |
| Phone:                            | 342-9049        | Office:                    | Health Standards Section                       |
| Return<br>Address:                | P. O. Box 3767  | Rule Title:                | Nurse Staffing Agencies<br>Licensing Standards |
|                                   | Baton Rouge, LA | Date Rule<br>Takes Effect: | February 20, 2024                              |

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 nurse staffing agencies (NSAs) in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

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 revenue collections as this measure has no impact on licensing fees.

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 nurse staffing agencies (NSAs) in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

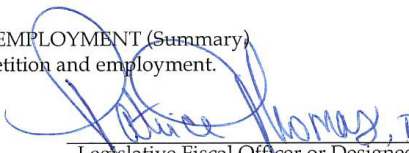
It is anticipated that this proposed rule may result in an indeterminable decrease in costs to NSA in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposed 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

11/8/23  
Date of Signature

 Alice Thomas, Deputy Fiscal Officer  
Legislative Fiscal Officer or Designee

11/08/2023  
Date of Signature



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

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its 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 nurse staffing agencies (NSAs) in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

- 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 nurse staffing agencies in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

- 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

09/2023

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 proposed 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<br>INCREASE/DECREASE | FY 24 | FY 25 | FY 26 |
|------------------------------|-------|-------|-------|
| STATE GENERAL FUND           | \$0   | \$0   | \$0   |
| AGENCY SELF-GENERATED        | \$0   | \$0   | \$0   |
| DEDICATED                    | \$0   | \$0   | \$0   |
| FEDERAL FUNDS                | \$0   | \$0   | \$0   |
| LOCAL FUNDS                  | \$0   | \$0   | \$0   |
| TOTAL                        | \$0   | \$0   | \$0   |

\*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.

Not applicable.

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 nurse staffing agencies (NSAs) in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

B. 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 this proposed rule may result in an indeterminable decrease in costs to NSA in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

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 proposed rule has no known effect on competition and employment.

09/2023