



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 10, 2022

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

A handwritten signature in blue ink, appearing to read "C. Phillips", written over the printed name and title.

Re: Second Report Proposed Amendments to LAC 51:II.701 – Immunization Schedule

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Proposed Immunization Schedule, LAC 51:II.701.

A Notice of Intent on the proposed amendments was published in the June 20, 2022 issue of the *Louisiana Register* (LR 48:1604). 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 June 20, 2022, Notice of Intent when it is published as a final rule in the September 20, 2022, issue of the *Louisiana Register*.

Please contact DeAnn Gruber, Ph.D., deann.gruber@la.gov, if you have any questions or require additional information about this matter.

Cc: Joseph Kanter, MD, MPH, State Health Officer
Doris Brown, MEd, MS, APRN, CNS, LDH Assistant Secretary, OPH
Aliya Rubenstein, Rulemaking Liaison, OPH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

Bureau of Health Services Financing, LR 44:1447 (August 2018), LR 45:273 (February 2019), LR 48:

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 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 will have no impact on 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, 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 Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on August 1, 2022.

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 July 11, 2022. 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 July 28, 2022 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 July 11, 2022. 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

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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: Intermediate Care Facilities for Persons with Intellectual Disabilities—Complex Care Reimbursements

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 21-22. It is anticipated that \$648 (\$324 SFG and \$324 FED) will be expended in FY 21-22 for the state's administrative expenses for promulgation of this proposed 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 other than the federal share of the promulgation costs for FY 21-22. It is anticipated that \$324 will be collected in FY 21-22 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 to private non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to revise and streamline the process by which ICFs/IID can request add-on rates for medically qualified beneficiaries receiving above-routine care and whose staffing levels exceed the required minimum. Implementation of this proposed rule will benefit qualified ICF/IID residents by ensuring improved quality of care for medically fragile beneficiaries. It is anticipated that implementation of this proposed rule will not result in costs to ICFs/IID in FY 21-22, FY 22-23, and FY 23-24, but will be beneficial by ensuring a shorter turnaround time and easier access to add-on rates for medically complex beneficiaries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Patrick Gillies
Medicaid Executive Director
2206#053

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office of Public Health

Public Health Immunization Requirements
(LAC 51:II.701)

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 amend §701, Immunization Schedule, of Part II of Title 51. The proposed amendments remove vaccines for SARS-CoV-2 from the list of required vaccinations for school entry and attendance.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 7. Public Health Immunization Requirements

§701. Immunization Schedule [formerly paragraph 2:025]

A. The Office of Public Health (OPH) will determine the Louisiana immunization schedule, with appropriate immunizations for age using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service (USPHS). Compliance for school and day care center entry will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

1. vaccines which contain tetanus and diphtheria toxoids, including Diphtheria and Tetanus (DT), Diphtheria/Tetanus/Acellular Pertussis (DTaP), Tetanus and Diphtheria (Tdap), Tetanus Toxoid (TT) or combinations which include these components;
2. polio vaccine, including Inactivated Polio Vaccine (IPV), or combinations which include this component;
3. vaccines which contain measles antigen, including Measles, Mumps, and Rubella (MMR) and combinations which include these components;
4. vaccines which contain hepatitis antigen, including Hepatitis B (HepB), Hepatitis A (HepA), and combinations which include these components;
5. vaccines which contain varicella antigen, including varicella and combinations which include this component.
6. vaccines which contain meningococcal antigen and combinations which include this component.
7. Repealed.

B. - D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2), R.S. 40:5(A) and R.S. 40:31.15. Also see R.S. 17:170, R.S. 22:1030, and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 38:1252 (May 2012), amended by the Department of Health, Office of Public Health, LR 45:670 (May 2019), LR 46:590 (April 2020), LR 47:1877 (December 2020), LR 48:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No, parents will still be able to exempt their children from being vaccinated for religious, medical, or philosophical reasons.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained the proposed Rule? Yes.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Small Business Protection Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments no later than Monday, July 25, 2022 to DeAnn Gruber, Bureau Director, Bureau of Infectious Diseases, Office of Public Health, 1450 Poydras St., Ste. 2136, New Orleans, LA, 70112 or faxed to (504) 568-7044.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either 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 Monday, July 11, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9 am on Monday, July 25, 2022, in Room 173 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 July 12, 2022. 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 the Bienville building's front security desk.

Joseph Kanter, MD, MPH
State Health Officer
and
Dr. Courtney N. Phillips
LDH Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Public Health
Immunization Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The Office of Public Health (OPH) will incur \$426 in expenses associated with the publication of this proposed rule change. The expenses will be paid with State General Fund.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change will not affect revenue collections for 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 is not anticipated to have an economic impact.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule is not anticipated to have an impact on existing competition or employment among vaccination providers.

Kimberly Hood, JD, MPH
Assistant Secretary
2206#058

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 42—Group Self Insurance Funds
(LAC 37:XIII:Chapter 11)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to amend Regulation 42—Group Self Insurance Funds. The Department of Insurance is amending Regulation 42 to update statutory references and revise language to align with current law.

The purpose of the amendment of Regulation 42 is to make changes to bring Regulation 42 into alignment with current law. Definitions have been updated. The requirements for an application to create a group self insurance fund have been revised. The language regarding filing and use of rates has been updated. The procedure for addressing fund insolvencies has been updated. Language regarding required examinations of group self insurance funds has been added.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 11. Regulation Number 42—Group Self-Insurance Funds

§1101. Definitions

A. When used in this regulation, the following words or terms shall have the following meaning:

~~Contingent Liability~~—the amount that a group self insurance fund may be obligated to pay in excess of a given fund year's normal premium collected or on hand.

~~Department~~—the Louisiana Department of Insurance.

~~Fiscal Agent~~—an individual, partnership, or corporation engaged by a group self insurance fund to carry out the fiscal policies of the fund, invest and disburse assets, and oversee the financial matters of the fund. An administrator may be a fiscal agent.

~~Gross Premium~~—premium determined by multiplying the payroll (segregated into the proper workers' compensation job classifications) by the manual premium rates approved by the commissioner.

~~Group Self Insurance Fund or Fund~~—employers who enter into agreements to pool their workers compensation liabilities in accordance with Louisiana Revised Statutes 23:1195.

~~Standard Premium~~—gross premium adjusted by experience modifiers.

~~Surplus~~—assets of a group self insurance fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.

~~AUTHORITY NOTE:~~ Promulgated in accordance with R.S. 23:1200.1.

~~HISTORICAL NOTE:~~ Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), amended LR 47:52 (January 2021), LR 48:

§1103. Application to Create a Group Self Insurance Fund

A. All applications to create a group self insurance fund shall meet the requirements of Louisiana Revised Statutes Title 23, §1195 et seq., any other applicable laws of the state of Louisiana, and this regulation.

B. Applications shall be made in writing on a form provided by the department.

C. Applications shall be submitted to the department at least 90 days prior to the effective date for establishment of a fund. Any application submitted with less than 90 days remaining before the desired effective date, or which does not contain answers to all questions, or which is not sworn to and subscribed before a notary public, or which does not contain all required documents, statements, reports, and required information, may be returned without review by the department.

D. All applications shall be accompanied by:

1. a properly completed indemnity agreement in a form acceptable to the department, pursuant to §1111 of this regulation;

2. security as required by Louisiana Revised Statutes Title 23, §1195 et seq. and this regulation;

3. copies of acceptable excess insurance or reinsurance policies, pursuant to Louisiana Revised Statutes Title 23, §1195 et seq. and this regulation;

4. a bond covering each third party administrator, pursuant to Louisiana Revised Statutes Title 23, §1195 et seq.;

5.

6. copies of the fund bylaws and trust agreement or other governance documents;