

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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

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 9, 2023. 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 28, 2023 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 9, 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 RULE TITLE: Nursing Facilities Optional State Assessment

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

It is anticipated 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 \$756 (\$378 SGF and \$378 FED) 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 continues the provisions of the October 1, 2023 Emergency Rule, which amended the standards for payment and reimbursement for nursing facilities in order to implement the required transition from the current RUG-III/RUG-IV case-mix classification model used under the

Medicare skilled nursing facility prospective payment system to the patient driven payment model (PDPM) which was delayed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) until October 1, 2023 due to the COVID-19 public health emergency.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 23-24. It is anticipated that \$378 will be collected in FY 23-24 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 continues the provisions of the October 1, 2023 Emergency Rule, which amended the standards for payment and reimbursement for nursing facilities in order to implement the required transition from the current RUG-III/RUG-IV case-mix classification model used under the Medicare skilled nursing facility prospective payment system to the patient driven payment model (PDPM) which was delayed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) until October 1, 2023 due to the COVID-19 public health emergency. The proposed rule implements the PDPM case-mix classification model for skilled nursing facilities and mandates use of the optional state assessment item set. It is anticipated that implementation of this proposed rule will not result in costs or benefits to nursing facility providers or small businesses in FY 23-24, FY 24-25, and FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#051

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT **RULE**

Department of Health Emergency Response Network Board

Louisiana Stroke Center Recognition
(LAC 48:I.Chapter 187)

Notice is hereby given that the Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to amend LAC 48:I.Chapter 187, Requirements for Stroke Center Recognition, §18703.A.3, §18705.A.5. and A.6, and §18708.D., as approved by the Emergency Response Network Board in a meeting of August 17, 2023, as authorized by R.S. 40:2846(A) and R.S. 40:2845(A)(7). The amendments clarify when primary stroke centers, both PSC-E and PSC, are required to submit quarterly data to LERN, clarifies the data needed for acute stroke center hospital (ASCH) recognition by LERN, and provides with respect to the failure to submit stroke center data to LERN.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 15. Emergency Response Network
Chapter 187. Requirements for Louisiana Stroke
Center Recognition

§18703. Stroke Center Criteria

A. - A. 2. ...

3. PSC-E: a primary stroke center (PSC-E) shall meet the requirements specified by the joint commission, healthcare facilities accreditation program (HFAP), or other LERN approved accrediting/certification body for Primary Stroke Center verification. Attestation as a PSC-E is only allowed after verification by the joint commission, HFAP, or other LERN approved accrediting/certification body that the facility meets all requirements set forth in the PSC standards. In addition to PSC requirements, a PSC-E must have physician(s) credentialed to perform mechanical thrombectomy and must update resource management portal of endovascular availability at all times. If a physician credentialed to perform endovascular capability is not available, the PSC-E must notify all EMS providers in the region when endovascular resources are not available. The PSC-E must collect and submit quarterly to LERN the same data the joint commission requires the Thrombectomy Stroke Capable centers to collect and any other data as required by LERN.

4. - 6.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 40:2590 (December 2014), amended by the Department of Health, Emergency Response Network LR 46:1088 (August 2020); amended by the Department of Health, Emergency Response Network LR 50:

§18705. Attestation for Stroke Center Recognition

A. - A.4. ...

5 A center or hospital seeking ASRH recognition must submit data which, at a minimum, meets door to needle metric for ASRH recognition for the two consecutive quarters immediately preceding the submission date. Although a center or hospital seeking ASRH stroke center recognition is not required to obtain certification by an external certifying body, a hospital which submits a copy of ASRH certification by a LERN-recognized organization, such as the joint commission, HFAP or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition. Hospitals must all meet LERN ASRH requirements and approved data submission requirements.

6. Each center or hospital shall submit proof of continued compliance every two years by submission of an affidavit by its CEO. The CEO may submit a revised attestation at any point during the two year period, as appropriate, when a change in resources or certification occurs.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 40:2590 (December 2014), amended by the Department of Health, Emergency Response Network LR 46:1089 (August 2020); amended by the Department of Health, Emergency Response Network, LR 50:

§18708. Failure to Submit Stroke Data to LERN

A. - C. ...

D. If an ASRH fails to meet the performance metrics after two quarters of participation in data review, the board appointed stroke committee may temporarily demote the facility to a stroke bypass hospital until the next board meeting, when the board appointed stroke subcommittee will present the blinded data to the board for a vote on demotion to stroke bypass hospital versus continued remediation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 46:1089 (August 2020); amended by the Department of Health, Emergency Response Network, LR 50:

Family Impact Statement

1. What effect will this rule have on the stability of the family? The proposed rules will not affect the stability of the family.
2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rules will not affect the authority and rights of persons regarding the education and supervision of their children.
3. What effect will this have on the functioning of the family? The rules will not affect the functioning of the family.
4. What effect will this have on family earnings and family budget? These rules will not affect the family earnings or family budget.
5. What effect will this have on the behavior and personal responsibility of children? These rules will not affect the behavior or personal responsibility of children.
6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the proposed rules will have no impact.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of these proposed Rules have 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 increase on direct or indirect cost. The proposed Rule 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 relative to the proposed Rule until 4:30 p.m., Friday, November 10, 2023 to Paige Hargrove, Louisiana Emergency Response Network, 7979 Independence Blvd, Suite 207, Baton Rouge, LA 70806, or via email to paige.hargrove@la.gov.

Paige Hargrove
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana Stroke Center Recognition**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Other than the rule publication costs, which are estimated to be \$250 in FY 24, it is not anticipated that the proposed rule will result in any material costs or savings to any state or local governmental unit.
As approved by the Louisiana Emergency Response Network (LERN) Board on August 17, 2023, the proposed rule clarifies when a primary stroke center is required to submit quarterly data to LERN, clarifies the data needed for acute stroke center hospital recognition by LERN, and provides that board appointed stroke committee may temporarily demote a facility to a stroke bypass hospital if the facility fails to meet certain performance metrics.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)
Patients experiencing a stroke are directly affected by this proposed rule, which protocol is authorized by La. R.S. 9:2798.5 and "developed to facilitate the timely and appropriate delivery of patients to the most appropriate care site for the definitive treatment of injuries." Hospitals seeking Acute Stroke Ready Hospital (ASRH) status and seeking to maintain ASRH are also impacted.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on employment or competition. Acute stroke ready hospital recognition is a voluntary process.

Paige Hargrove
Executive Director
2310#032

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Health
Health Standards Section**

Facility Need Review
(LAC 48:I.Chapter 125)

The Department of Health, Health Standards Section proposes to repeal and replace LAC 48:I.Chapter 125 in its entirety as authorized by R.S. 36:254 and R.S. 40:2116 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 531 of the 2022 Regular Session of the Louisiana Legislature directed the Department of Health to revise the requirements governing the facility need review (FNR) process to identify healthcare providers subject to FNR, establish an FNR committee, and establish an FNR moratorium, exceptions, and cost effective measures for nursing facilities.

The Department of Health, Health Standards Section proposes to repeal and replace the provisions of LAC 48:I.Chapter 125 governing facility need review in its entirety in order to re-promulgate these provisions in compliance with Act 531 and to include requirements for Opioid Treatment Program need and application reviews.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

Abeyance of Nursing Facility Beds—a situation in which a nursing facility, if it meets certain requirements, may have all (but not only a portion) of its approved beds disenrolled from the Medicaid Program without causing the approval for the beds to be revoked after 120 days.

Adult Residential Care Provider (ARCP)—a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group, that provides adult residential care services for compensation to two or more adults who are unrelated to the licensee or operator. Adult residential care includes, but is not limited to the following services: lodging, meals, medication administration, intermittent nursing services, and assistance with personal hygiene, assistance with transfers and ambulation, assistance with dressing, housekeeping and laundry. For the purposes of this Facility Need Review (FNR) Rule, ARCP refers to an entity that is or will be licensed as an ARCP level 4-adult residential care provider. All ARCPs that have received FNR approval prior to August 1, 2022 shall retain FNR approval unless such FNR approval has expired. Facility need review approval is not required for any ARCP that is initially licensed August 1, 2022 or thereafter.

Agonist—a drug that activates certain receptors in the brain.

Antagonist—a drug that blocks opioids by attaching to the opioid receptors without activating them. Antagonists cause no opioid effect and block full agonist opioids. Examples of antagonists include, but are not limited to naltrexone and naloxone.

Applicant—the person who is developing the proposal for purposes of receipt of FNR approval for the healthcare facility or provider beds to proceed to apply for licensure, and/or certification by the Louisiana Department of Health (LDH).

Applicant Representative(s)—the person(s) specified by the applicant on the FNR application form to whom written notifications are provided relative to the status of the application during the review process.