

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

No impact on state or local government revenue collections is anticipated as a result of the proposed rule change.

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

This amendment is in accordance with LA R.S.37:2353 and is proposing to adopt the most recent ethical standards and code of conduct for psychologists published by the American Psychological Association. Psychologists have adhered to the nationally accepted ethical principals and code of conduct since 1980.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this rule change.

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**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

**Nursing Practice (LAC 46:XLVII.Chapter 37)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) is proposing changes to LAC 46:XLVII.3703.A.a.iv.c and devising the new Section LAC 46:XLVII.3709. The Nurse Practice Act provides that the registered nurse and APRN may delegate selected nursing functions approved by the board; however medication administration has previously been considered a complex task that has not been deemed delegable to unlicensed personnel in any circumstances. The proposed Rule changes provide for such delegation in limited and specific circumstances. The Act and rules assign to the registered nurse and APRN the responsibility of providing the same quality of patient care as provided by the registered nurse when tasks are delegated. The administrative rules also address specific criteria that must be met in order for the registered nurse to delegate tasks.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses: Practical Nurses  
and Registered Nurses**

**Chapter 37. Nursing Practice**

**§3703. Definition of Terms Applying to Nursing  
Practice**

A. Terms applying to legal definitions of nursing practice, R.S. 37:913(13) and (14).

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*Delegating Nursing Interventions*—entrusting the performance of selected nursing tasks by the registered nurse to other competent nursing personnel in selected situations. The registered nurse retains the accountability for the total nursing care of the individual. The registered nurse is responsible for and accountable to each consumer of nursing care for the quality of nursing care he or she receives,

regardless of whether the care is provided solely by the registered nurse or by the registered nurse in conjunction with other licensed or unlicensed assistive personnel.

a. - a.iv.(b). ...

(c). The administration of medications is a complex task when it requires the consideration of a number of factors and the formulation of judgments according to those factors. Delegation of medication administration to unlicensed assistive personnel is prohibited except as authorized and provided for in LAC 46:XLVII.3709.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:911, R.S. 37:913 and R.S. 37:935.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing LR 7:79 (March 1981), amended LR 10:598 (August 1984), LR 12:677 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 32:245 (February 2006), LR 42:

**§3709. Delegation of Medication Administration to  
Unlicensed Assistive Personnel in Outpatient  
Clinic Settings**

A. Introduction. Registered nurses and advanced practice registered nurses may delegate medication administration in outpatient clinic settings for patients with stable and predictable health conditions under specific provisos as provided for in this Subpart. When delegating to unlicensed assistive personnel, the registered nurse or advanced practice registered nurse is authorizing the unlicensed assistive personnel to perform a task that is normally within the registered nurse's or advanced practice registered nurse's scope of practice. Prior to agreeing to delegate tasks including medication administration, the registered nurse or advanced practice registered nurse is responsible for understanding rules relative to delegating nursing care and for achieving the competence to delegate and supervise.

B. Definitions

*Administration of Medication*—removal of an individual dose from a previously dispensed or distributed, properly labeled container, verifying the dose and medication with the prescriber's order, giving the individual dose to the proper patient at the proper time by the proper route and promptly recording the time and dose given.

*Delegation*—entrusting the performance of selected nursing tasks by the registered nurse to other competent nursing personnel in selected situations. The registered nurse or advanced practice registered nurse retains the accountability for the total nursing care of the individual. The registered nurse and advanced practice registered nurse is responsible for and accountable to each consumer of nursing care for the quality of nursing care he or she receives, regardless of whether the care is provided solely by the registered nurse/advanced practice registered nurse or by the registered nurse/advanced practice registered nurse in conjunction with other licensed or unlicensed assistive personnel.

*Direct Supervision*—the registered nurse or advanced practice registered nurse is physically present in the office or suite where the procedure, including medication administration, is being performed at all times that the unlicensed assistive personnel is on duty providing services. Direct supervision also includes ongoing oversight, follow-up and evaluation of the individual patient and the ongoing

oversight, follow-up and evaluation of competency of the unlicensed assistive personnel.

*Outpatient Clinic Setting*—nonresidential facilities, that provides treatment for health conditions that is obtained on an outpatient basis which allows patients to return to and function in their usual environment. Outpatient clinic settings for the purpose of this subpart do not include facilities such as hospitals, emergency rooms, and ambulatory surgical centers.

*Person-Specific*—health care needs and related factors in order to meet the unique needs of the specific person receiving care.

*Stable and Predictable*—a situation in which the person’s clinical and behavioral status is determined by a licensed registered nurse or advanced practice registered nurse to be non-fluctuating and consistent. A stable and predictable condition involves long term health care needs which are recuperative in nature, do not require the regular scheduled presence or reassessment of a licensed nurse, and is not characterized by rapid changes.

*Unlicensed Assistive Personnel*—an unlicensed individual who is trained to function in an assistive role to the licensed nurse in the provision of patient activities as delegated by the nurse. Unlicensed assistive personnel have no authority to provide nursing care, despite any education or training, without the delegation of such care and tasks from registered nurses or advanced practice registered nurses.

C. Responsibilities. Registered nurses and advanced practice registered nurses may delegate medication administration in outpatient clinic settings provided the following conditions are met.

1. The registered nurse or advanced practice registered nurse has assessed the health status of the individual immediately prior to the delegation, and the patient’s health condition is determined to be stable and predictable.

2. The registered nurse or advanced practice registered nurse provides direct supervision and retains the accountability for the total nursing and advanced practice nursing care of the individual and retains the responsibility to:

- i. assess the patient;
- ii. develop and implement the plan of care;
- iii. determine that the medication administration can be safely and legally delegated;
- iv. ensure the medication administration is properly documented in the patient’s record;
- v. ascertain the training and competency of the unlicensed assistive personnel to whom the registered nurse or advanced practice registered nurse delegates the administration of medication;
- vi. rescind the delegation if the patient’s condition changes, it is determined that the unlicensed assistive personnel is not safe or competent to administer the medication, or as otherwise determined by the registered nurse or advanced practice registered nurse.

3. The delegation of medication administration to unlicensed assistive personnel must be person-specific, and the unlicensed assistive personnel must:

- i. be adequately trained for the task;
- ii. have demonstrated that the task has been learned;

iii. be able to perform the task safely in the given nursing situation;

iv. be safe for the person to carry out the task;

v. have appropriate supervision available during the task implementation.

4. The delegation of medication administration by the unlicensed assistive personnel must be an established policy of the practice setting and include all aspects of LAC 46:XLVII.3709.G at a minimum. The policy must be written, recorded, and available to all.

5. The registered nurse or advanced practice registered nurse and the unlicensed assistive personnel must be employed by the same organization or otherwise be formally accountable to the same institution or organization.

#### D. Prohibitions and Exceptions

1. Under no circumstances shall a registered nurse or advanced practice registered nurse delegate the administration of:

- i. drugs given by the intravenous route;
- ii. blood and blood products;
- iii. investigational drugs;
- iv. cancer therapeutic agents;
- v. total parenteral nutrition solutions;
- vi. drugs given through accessing an implanted device;
- vii. insulin;
- viii. oxygen;
- ix. controlled substances;
- x. anesthetic agents;
- xi. any agents used in the provision of cosmetic and aesthetic dermatological procedures.

2. The delegation of medication administration is person-specific and is in no way considered a certification or skill that authorizes the unlicensed assistive personnel to utilize the title or credentials of other professionals including licensed persons.

3. These rules do not apply to inpatient facilities, licensed emergency departments of a hospital, long term care facilities, any residential facilities, or any other facility in which a registered nurse is required to be present by statute or administrative rule.

4. This Subpart, LAC 46:XLVII.3709, does not apply to nursing students enrolled in board approved nursing programs while practicing under the direct supervision of qualified faculty and preceptors.

5. The registered nurse or advanced practice registered nurse shall not delegate medication administration or any other task if the intervention requires the registered nurse’s or advanced practice registered nurse’s judgment to safely alter the standard procedure in accordance with the needs of the patient; or requires the consideration of a number of factors in order to perform the procedure; or requires judgment to determine how to proceed from one step to the next.

6. The reconstitution of and the calculation of any medication doses except for measuring a prescribed amount of a liquid medication for oral administration or breaking a tablet for administration as instructed by the registered nurse or advanced practice registered nurse shall not be delegated to unlicensed assistive personnel.

7. The registered nurse or advanced practice registered nurse shall not delegate any responsibilities of delegating

including but not limited to all provisions in LAC 46:XLVII.3709.C.

E. Training. In order for a registered nurse or advanced practice registered nurse to be authorized by the board to delegate medication administration under LAC 46:XLVII.3709, there must be documented, formal training performed by a registered nurse or advanced practice registered nurse of the unlicensed assistive personnel.

1. The formal training must include, at a minimum, didactic and demonstrated competency in:

- i. legal aspects of administering medication;
- ii. medical terminology;
- iii. proper documentation;
- iv. principles and rights of medication administration;
- v. administration techniques; and
- vi. patient consent.

F. Organizational Policy. Registered nurses or advanced practice registered nurses and facilities that allow for delegating medication administration to unlicensed assistive personnel are responsible for ensuring that there is an approved organizational policy in place that:

1. addresses and allows delegation of medication administration to unlicensed assistive personnel;

2. establishes and provides for formal processes for documenting and reporting medication errors as committed by the unlicensed assistive personnel. Such provisions must provide for remediation of the unlicensed assistive personnel, registered nurse or advanced practice registered nurse, and system as appropriate;

3. provides mechanisms for documenting in writing the training and ongoing competency of the unlicensed assistive personnel and ensures that the delegating registered nurse or advanced practice registered nurse has access to such competence information;

4. provides for a formally documented, written annual review and re-assessment of competency of the unlicensed assistive personnel on no less than an annual basis and ensures that the delegating registered nurse or advanced practice registered nurse has access to such competence information;

5. provides for and recognizes that the decision to delegate tasks including delegation of medication administration in any specific situation is at the final discretion of the registered nurse or advanced practice registered nurse who is providing direct and immediate care to the patient;

6. provides for documentation and review of other pertinent procedures such as needle stick injuries, universal precautions, and infection control.

G. Limitations

1. All unlicensed assistive personnel who have been trained or otherwise recognized or authorized to administer medication in another jurisdiction or under the provisions of another code, rule, statute or other law body in Louisiana must meet the provisions of LAC 46:XLVII.3709 in order to administer medication in outpatient clinic settings through the delegation from registered nurses and advanced practice registered nurses.

H. Failure to abide by any provision of this Part may result in formal disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 42:

#### **Family Impact Statement**

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

#### **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 not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

#### **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 not have an 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 on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before April 10, 2016.

Karen C. Lyon  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Practice**

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

Other than publication costs associated with the proposed rule changes, which are estimated to be \$950 in FY 16, it is not anticipated that state or local governmental units will incur any other costs or savings as a result of promulgation of the proposed rule. The proposed rule changes to LAC 46:XLVII 3703.A.a.iv.c would allow for unlicensed medical assistive personnel, specifically certified medical assistants, to provide such services as medication administration. The Nurse Practice Act provides that the registered nurse may delegate selected nursing functions approved by the Board. Specific criteria must be met in order for the registered nurse to delegate tasks and or functions. The addition of a new section LAC 46:XLVII 3709

will provide the requirements deemed necessary to allow registered nurses and Advanced Practice Registered Nurses (APRNs) the authority to delegate medication administration in outpatient clinic settings for patients with stable and predictable health conditions.

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

The proposed rule changes will not affect state or local governmental revenue collections.

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

The proposed rule changes are not anticipated to result in costs and/or economic benefits to any person or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes do not affect competition and/or employment.

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## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing

Administrative Procedures  
Tribal Consultation Process  
(LAC 50:I.105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:I.105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Federal regulations at §1902(a)(73) of the Social Security Act (the Act) requires states in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular, ongoing basis from designees of Indian health programs, whether operated by the Indian Health Service (HIS), tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA) or Urban Indian Organizations under the Indian Health Care Improvement Act (IHCA). Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program (CHIP). Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian Organizations.

In compliance with the provisions of §§1902(a)(73) and 2107(e)(I), the Department of Health and Hospitals, Bureau of Health Services Financing submitted the required Medicaid State Plan Amendment (SPA) under transmittal number (TN) 12-13 in June 2012 and secured federal approval of the Medicaid Program's tribal consultation process from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The tribal consultation process must be completed

for all Medicaid State Plan, waiver, and CHIP submissions to CMS.

CMS has now determined that LA SPA TN 12-13 needs to be amended in order to clarify the regulations governing the provisions relative to waiver submissions, and has directed the department to submit a corresponding SPA to make the necessary revisions. In compliance with CMS' directive, the department proposes to adopt provisions governing the tribal consultation process in the Medicaid Program and to promulgate these provisions in a codified format for inclusion in the *Louisiana Administrative Code*. This proposed rule will also satisfy the technical requirements for federal public notice for submission of the corresponding SPA.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

##### Subpart 1. General Provisions

#### Chapter 1. Administrative Procedures

##### §105. Tribal Consultation Process

A. Pursuant to §1902(a)(73) and §2107(e)(I) of the Social Security Act, the Medicaid Program hereby establishes a process to seek advice on a regular, ongoing basis from designees of the state's federally-recognized Indian tribal organizations and Indian health programs about Medicaid and Children's Health Insurance Program matters that may have a direct impact on Indian health programs and tribal organizations.

B. The department shall comply with the technical requirements for providing verification of the tribal consultation process to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) when changes to the Medicaid Program are submitted through:

1. State Plan amendments;
2. waivers, including:
  - a. newly proposed submissions;
  - b. amendments;
  - c. extensions;
  - c. renewals; and
  - d. waiver terminations.

C. In accordance with the approved Medicaid State Plan governing the tribal consultation process, the Medicaid Program will periodically provide a summary, which includes the changes being made by the Medicaid Program, to the federally-recognized Louisiana tribal organizations to initiate the tribal consultation process.

1. Tribal organizations will have 30 days to respond with any comments, unless the date for submission of the changes to CMS becomes critical and needs to be expedited. Expedited submissions will have a 7-day comment period. This notification and comment period applies to all State Plan and waiver submissions.

2. If comments are received, they will be forwarded to the State Medicaid Director, or his/her designee, for further consideration. If no comments are received within the 30- or 7-day time frame, the Medicaid Program will make the assumption the tribes agree with the provisions in the proposed State Plan and waiver documents and proceed accordingly.

D. The tribal comment period must expire prior to the submission of State Plan and waiver documents to CMS.